



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

June 25, 2002

TO: The Commission
Staff Director
General Counsel
Press Office
Public Disclosure Division
Information Division

FROM: Rosemary C. Smith *RC*
Acting Associate General Counsel

SUBJECT: Final Soft Money Rules

Attached, please find the final Soft Money rules as approved by the Commission on June 22, 2002.

cc: Congressional Affairs Office
Assistant Staff Director, Audit

For reasons set out in the preamble, Subchapters A, C and F of Chapter I of title 11 of the Code of Federal Regulations is amended to read as follows:

PART 100 – SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for 11 CFR part 100 continues to read as follows:

Authority: 2 U.S.C. 431; 434(a)(11), 438(a)(8).

2. Section 100.14 is amended by revising paragraphs (a) and (b), and adding paragraph (c) to read as follows:

§ 100.14 State committee, subordinate committee, district, or local committee (2 U.S.C. 431(15)).

(a) State committee means the organization that by virtue of the bylaws of a political party or the operation of State law is part of the official party structure and is responsible for the day-to-day operation of the political party at the State level, including an entity that is directly or indirectly established, financed, maintained, or controlled by that organization, as determined by the Commission.

(b) District or local committee means any organization that by virtue of the bylaws of a political party or the operation of State law is part of the official party structure, and is responsible for the day-to-day operation of the political party at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a State.

(c) Subordinate committee of a State, district, or local committee means any organization that at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a State or any organization under the control or direction of the

State committee, and is directly or indirectly established, financed, maintained, or controlled by the State, district, or local committee.

3. Sections 100.24, 100.25, 100.26, 100.27, and 100.28 are added to read as follows:

§ 100.24 Federal election activity (2 U.S.C. 431(20)).

(a) As used in this section, and in part 300 of this chapter,

(1) In connection with an election in which a candidate for Federal office appears on the ballot means:

(i) The period of time beginning on the date of the earliest filing deadline for access to the primary election ballot for Federal candidates as determined by State law, or in those States that do not conduct primaries, on January 1 of each even-numbered year and ending on the date of the general election, up to and including the date of any general runoff.

(ii) In an odd-numbered year, the period beginning on the date on which the date of a special election in which a candidate for Federal office appears on the ballot is set and ending on the date of the special election.

(2) Voter registration activity means contacting individuals by telephone, in person, or by other individualized means to assist them in registering to vote. Voter registration activity includes, but is not limited to, printing and distributing registration and voting information, providing individuals with voter registration forms, and assisting individuals in the completion and filing of such forms.

- (3) Get-out-the-vote activity means contacting registered voters by telephone, in person, or by other individualized means, to assist them in engaging in the act of voting. Get-out-the-vote activity shall not include any communication by an association or similar group of candidates for State or local office or of individuals holding State or local office if such communication refers only to one or more State or local candidates. Get-out-the-vote activity includes, but is not limited to:
- (i) Providing to individual voters, within 72 hours of an election, information such as the date of the election, the times when polling places are open, and the location of particular polling places; and
 - (ii) Offering to transport or actually transporting voters to the polls.
- (4) Voter identification means creating or enhancing voter lists by verifying or adding information about the voters' likelihood of voting in an upcoming election or their likelihood of voting for specific candidates. This paragraph shall not apply to an association or similar group of candidates for State or local office or of individuals holding State or local office if the association or group engages in voter identification that refers only to one or more State or local candidates.
- (b) As used in part 300 of this chapter, Federal election activity means any of the activities described in paragraphs (b)(1) through (b)(4) of this section.
- (1) Voter registration activity during the period that begins on the date that is 120 calendar days before the date that a regularly scheduled Federal election is held and ends on the date of the election. For purposes of voter

registration activity, the term "election" does not include any special election.

- (2) The following activities conducted in connection with an election in which one or more candidates for Federal office appears on the ballot (regardless of whether one or more candidates for State or local office also appears on the ballot):
 - (i) Voter identification.
 - (ii) Generic campaign activity, as defined in 11 CFR 100.25.
 - (iii) Get-out-the-vote activity.
 - (3) A public communication that refers to a clearly identified candidate for Federal office, regardless of whether a candidate for State or local election is also mentioned or identified, and that promotes or supports, or attacks or opposes any candidate for Federal office. This paragraph applies whether or not the communication expressly advocates a vote for or against a Federal candidate.
 - (4) Services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a Federal election.
- (c) Exceptions. Federal election activity does not include any amount expended or disbursed by a State, district, or local committee of a political party for any of the following activities:

- (1) A public communication that refers solely to one or more clearly identified candidates for State or local office and that does not promote or support, or attack or oppose a clearly identified candidate for Federal office; provided, however, that such a public communication shall be considered a Federal election activity if it constitutes voter registration activity, generic campaign activity, get-out-the-vote activity, or voter identification.
- (2) A contribution to a candidate for State or local office, provided the contribution is not designated to pay for voter registration activity, voter identification, generic campaign activity, get-out-the-vote activity, a public communication, or employee services as set forth in paragraphs (a)(1) through (4) of this section.
- (3) The costs of a State, district, or local political convention, meeting or conference.
- (4) The costs of grassroots campaign materials, including buttons, bumper stickers, handbills, brochures, posters, and yard signs, that name or depict only candidates for State or local office.

§ 100.25 Generic campaign activity (2 U.S.C. 431(21)).

Generic campaign activity means a public communication that promotes or opposes a political party and does not promote or oppose a clearly identified Federal candidate or a non-Federal candidate.

§ 100.26 Public communication (2 U.S.C. 431(22)).

Public communication means a communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing or telephone bank to the general public, or any other form of general public political advertising. The term public communication shall not include communications over the Internet.

§ 100.27 Mass mailing (2 U.S.C. 431(23)).

Mass mailing means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period. A mass mailing does not include electronic mail or Internet communications. For purposes of this section, substantially similar includes communications that include substantially the same template or language, but vary in non-material respects such as communications customized by the recipient's name, occupation, or geographic location.

§ 100.28 Telephone bank (2 U.S.C. 431(24)).

Telephone bank means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period. A telephone bank does not include electronic mail or Internet communications transmitted over telephone lines. For purposes of this section, substantially similar includes communications that include substantially the same template or language, but vary in non-material respects such as communications customized by the recipient's name, occupation, or geographic location.

4. Sections 100.29 through 100.50 are added and reserved.

5. Sections 100.1 through 100.50 are designated as subpart A – General Definitions.

**PART 102 – REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY
POLITICAL COMMITTEES (2 U.S.C. 433)**

6. The authority citation for part 102 continues to read as follows:

Authority: 2 U.S.C. 432, 433, 434(a)(11), 438(a)(8), 441d.

7. Section 102.5 is revised to read as follows:

**§ 102.5 Organizations financing political activity in connection with Federal
and non-Federal elections, other than through transfers and joint fundraisers:
Accounts and Accounting.**

(a) Organizations that are political committees under the Act, other than national
party committees.

(1) Each organization, including a State, district, or local party committee,
that finances political activity in connection with both Federal and non-
Federal elections and that qualifies as a political committee under 11 CFR
100.5 shall either:

(i) Establish a separate Federal account in a depository in accordance
with 11 CFR part 103. Such account shall be treated as a separate
Federal political committee that must comply with the
requirements of the Act including the registration and reporting
requirements of 11 CFR parts 102 and 104. Only funds subject to
the prohibitions and limitations of the Act shall be deposited in
such separate Federal account. See 11 CFR 103.3. All
disbursements, contributions, expenditures, and transfers by the
committee in connection with any Federal election shall be made

from its Federal account, except as otherwise permitted for State, district, and local party committees by 11 CFR part 300 and paragraph (a)(5) of this section. No transfers may be made to such Federal account from any other account(s) maintained by such organization for the purpose of financing activity in connection with non-Federal elections, except as provided by 11 CFR 300.33, 300.34, 106.6(c), and 106.7(f). Administrative expenses for political committees other than party committees shall be allocated pursuant to 11 CFR 106.6 between such Federal account and any other account maintained by such committee for the purpose of financing activity in connection with non-Federal elections.

Administrative expenses for State, district, and local party committees are subject to 11 CFR 106.7 and 11 CFR part 300; or

- (ii) Establish a political committee that shall receive only contributions subject to the prohibitions and limitations of the Act, regardless of whether such contributions are for use in connection with Federal or non-Federal elections. Such organization shall register as a political committee and comply with the requirements of the Act.

- (2) Only contributions meeting any of the conditions set forth in paragraphs (a)(2)(i), (ii), or (iii) of this section may be deposited in a Federal account established under paragraph (a)(1)(i) of this section, see 11 CFR 103.3, or may be received by a political committee established under paragraph (a)(1)(ii) of this section;

- (i) Contributions designated for the Federal account;
 - (ii) Contributions that result from a solicitation which expressly states that the contribution will be used in connection with a Federal election; or
 - (iii) Contributions from contributors who are informed that all contributions are subject to the prohibitions and limitations of the Act.
- (3) State, district, and local party committees that intend to expend Levin funds raised pursuant to 11 CFR 300.31 for activities identified in 11 CFR 300.32(b)(1) must either:
 - (i) Establish one or more separate Levin accounts pursuant to 11 CFR 300.30(c)(2); or
 - (ii) Demonstrate through a reasonable accounting method (including any method embedded in software provided or approved by the Commission) that whenever such organization makes a payment that organization has received sufficient funds subject to the limitations and prohibitions of the Act or the requirements of 11 CFR 300.30(c)(1) or (3) to make such payment. Such organization shall keep records of amounts received or expended under this paragraph and, upon request, shall make such records available for examination by the Commission.
- (4) Solicitations by Federal candidates and Federal officeholders for State,

district, and local party committees are subject to the restrictions in 11 CFR 300.31(e) and 11 CFR part 300, subpart D.

- (5) State, district, and local party committees and organizations may establish one or more separate allocation accounts to be used for activities allocable pursuant to 11 CFR 106.7 and 11 CFR 300.33.

(b) Organizations that are not political committees under the Act.

- (1) Any organization that makes contributions, expenditures, and exempted payments under 11 CFR 100.7(b)(9), (15) and (17) and 11 CFR 100.8(b)(10), (16) and (18), but that does not qualify as a political committee under 11 CFR 100.5, must keep records of receipts and disbursements and, upon request, must make such records available for examination by the Commission. The organization must demonstrate through a reasonable accounting method that, whenever such an organization makes a contribution or expenditure, or payment, the organization has received sufficient funds subject to the limitations and prohibitions of the Act to make such contribution, expenditure, or payment.
- (2) Any State, district, or local party organization that makes payments for certain Federal election activities under 11 CFR 300.32(b) must either:
 - (i) Establish one or more Levin accounts pursuant to 11 CFR 300.30(b) into which only funds solicited pursuant to 11 CFR 300.31 may be deposited and from which payments must be made

pursuant to 11 CFR 300.32 and 300.33. See 11 CFR 300.30(c)(2)(i); or

- (ii) Demonstrate through a reasonable accounting method (including any method embedded in software provided or approved by the Commission) that whenever such organization makes a payment that organization has received sufficient funds subject to the limitations and prohibitions of the Act or the requirements of 11 CFR 300.31 to make such payment. Such organization shall keep records of amounts received or expended under this paragraph and, upon request, shall make such records available for examination by the Commission. See 11 CFR 300.30(c)(2)(ii).

- (3) All such party organizations shall keep records of deposits to and disbursements from such Federal and Levin accounts, and upon request, shall make such records available for examination by the Commission.

(c) National party committees. Between November 6, 2002, and December 31, 2002, paragraphs (a) and (b) of this section apply to national party committees. After December 31, 2002, national party committees are prohibited from raising and spending non-Federal funds. Therefore, this section does not apply to national party committees after December 31, 2002.

8. Section 102.17 is amended by adding introductory language to paragraph (a) to read as follows:

§ 102.17 Joint fundraising by committees other than separate segregated funds.

(a) General. Nothing in this section shall supersede 11 CFR part 300, which prohibits any person from soliciting, receiving, directing, transferring, or spending any non-Federal funds, or from transferring Federal funds for Federal election activities.

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PART 104 – REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

9. The authority citation for part 104 continues to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8), 438(b), 439a.

10. Section 104.8 is amended by revising paragraphs (e) and (f) to read as follows:

§ 104.8 Uniform reporting of receipts.

* * * * *

(e) For reports covering activity on or before December 31, 2002, national party committees shall disclose in a memo Schedule A information about each individual, committee, corporation, labor organization, or other entity that donates an aggregate amount in excess of \$200 in a calendar year to the committee's non-Federal account(s). This information shall include the donating individual's or entity's name, mailing address, occupation or type of business, and the date of receipt and amount of any such donation. If a donor's name is known to have changed since an earlier donation reported during the calendar year, the exact name or address previously used shall be noted with the first reported donation from that donor subsequent to the name change. The memo entry shall

also include, where applicable, the information required by paragraphs (b) through (d) of this section.

(f) For reports covering activity on or before December 31, 2002, national party committees shall also disclose in a memo Schedule A information about each individual, committee, corporation, labor organization, or other entity that donates an aggregate amount in excess of \$200 in a calendar year to the committee's building fund account(s). This information shall include the donating individual's or entity's name, mailing address, occupation or type of business, and the date of receipt and amount of any such donation. If a donor's name is known to have changed since an earlier donation reported during the calendar year, the exact name or address previously used shall be noted with the first reported donation from that donor subsequent to the name change. The memo entry shall also include, where applicable, the information required by paragraphs (b) through (d) of this section.

11. Section 104.9 is amended by revising paragraphs (c), (d), and (e) to read as follows:

§ 104.9 Uniform reporting of disbursements.

* * * * *

(c) For reports covering activity on or before March 31, 2003, national party committees shall report in a memo Schedule B the full name and mailing address of each person to whom a disbursement in an aggregate amount or value in excess of \$200 within the calendar year is made from the committee's non-Federal account(s), together with the date, amount, and purpose of such disbursement, in accordance with paragraph (b) of this

section. As used in this section, purpose means a brief statement or description as to the reasons for the disbursement. See 11 CFR 104.3(b)(3)(i)(A).

(d) For reports covering activity on or before March 31, 2003, national party committees shall report in a memo Schedule B the full name and mailing address of each person to whom a disbursement in an aggregate amount or value in excess of \$200 within the calendar year is made from the committee's building fund account(s), together with the date, amount, and purpose of such disbursement, in accordance with paragraph (b) of this section. As used in this section, purpose means a brief statement or description as to the reasons for the disbursement. See 11 CFR 104.3(b)(3)(i)(A).

(e) For reports covering activity on or before December 31, 2002, national party committees shall report in a memo Schedule B each transfer from their non-Federal account(s) to the non-Federal accounts of a State or local party committee.

12. Section 104.10 is revised to read as follows:

§ 104.10 Reporting by separate segregated funds and nonconnected committees of expenses allocated among candidates and activities.

(a) Expenses allocated among candidates. A political committee that is a separate segregated fund or a nonconnected committee making an expenditure on behalf of more than one clearly identified candidate for Federal office shall allocate the expenditure among the candidates pursuant to 11 CFR part 106. Payments involving both expenditures on behalf of one or more clearly identified Federal candidates and disbursements on behalf of one or more clearly identified non-Federal candidates shall also be allocated pursuant to 11 CFR part 106. For allocated expenditures, the committee shall report the amount of each in-kind contribution, independent expenditure, or

coordinated expenditure attributed to each Federal candidate. If a payment also includes amounts attributable to one or more non-Federal candidates, and is made by a political committee with separate Federal and non-Federal accounts, then the payment shall be made according to the procedures set forth in 11 CFR 106.6(e), but shall be reported pursuant to paragraphs (a)(1) through (a)(4) of this section, as follows:

- (1) Reporting of allocation of expenses attributable to specific Federal and non-Federal candidates. In each report disclosing a payment that includes both expenditures on behalf of one or more Federal candidates and disbursements on behalf of one or more non-Federal candidates, the committee shall assign a unique identifying title or code to each program or activity conducted on behalf of such candidates, shall state the allocation ratio calculated for the program or activity, and shall explain the manner in which the ratio was derived. The committee shall also summarize the total amounts attributed to each candidate, to date, for each joint program or activity.
- (2) Reporting of transfers between accounts for the purpose of paying expenses attributable to specific Federal and non-Federal candidates. A political committee that pays allocable expenses in accordance with 11 CFR 106.6(c) shall report each transfer of funds from its non-Federal account to its Federal account or to its separate allocation account for the purpose of paying such expenses. In the report covering the period in which each transfer occurred, the committee shall explain in a memo entry the allocable expenses to which the transfer relates and the date on which

the transfer was made. If the transfer includes funds for the allocable costs of more than one program or activity, the committee shall itemize the transfer, showing the amounts designated for each program or activity conducted on behalf of one or more clearly identified Federal candidates and one or more clearly identified non-Federal candidates.

- (3) Reporting of allocated disbursements attributable to specific Federal and non-Federal candidates. A political committee that pays allocable expenses in accordance with 11 CFR 106.6(e) shall also report each disbursement from its Federal account or its separate allocation account in payment for a program or activity conducted on behalf of one or more clearly identified Federal candidates and one or more clearly identified non-Federal candidates. In the report covering the period in which the disbursement occurred, the committee shall state the full name and address of each person to whom the disbursement was made, and the date, amount, and purpose of each such disbursement. If the disbursement includes payment for the allocable costs of more than one program or activity, the committee shall itemize the disbursement, showing the amounts designated for payment of each program or activity conducted on behalf of one or more clearly identified Federal candidates and one or more clearly identified non-Federal candidates. The committee shall also report the amount of each in-kind contribution, independent expenditure, or coordinated expenditure attributed to each Federal candidate, and the total amount attributed to the non-Federal candidate(s). In addition, the

committee shall report the total amount expended by the committee that year, to date, for each joint program or activity.

- (4) Recordkeeping. The treasurer shall retain all documents supporting the committee's allocation on behalf of specific Federal and non-Federal candidates, in accordance with 11 CFR 104.14.

(b) Expenses allocated among activities. A political committee that is a separate segregated fund or a nonconnected committee and that has established separate Federal and non-Federal accounts under 11 CFR 102.5(a)(1)(i) shall allocate between those accounts its administrative expenses and its costs for fundraising and generic voter drives according to 11 CFR 106.6, and shall report those allocations according to paragraphs (b) (1) through (5) of this section, as follows:

- (1) Reporting of allocation of administrative expenses and costs of generic voter drives.

- (i) In the first report in a calendar year disclosing a disbursement for administrative expenses or generic voter drives, as described in 11 CFR 106.6(b), the committee shall state the allocation ratio to be applied to these categories of activity according to 11 CFR 106.6(c), and the manner in which it was derived.

- (ii) In each subsequent report in the calendar year itemizing an allocated disbursement for administrative expenses or generic voter drives:

- (A) The committee shall state the category of activity for which each allocated disbursement was made, and shall

summarize the total amount spent by the Federal and non-Federal accounts that year, to date, for each such category.

- (B) The committees shall also report in a memo entry the total amounts expended in donations and direct disbursements on behalf of specific State and local candidates, to date, in that calendar year.

- (2) Reporting of allocation of the direct costs of fundraising. In each report disclosing a disbursement for the direct costs of a fundraising program, as described in 11 CFR 106.6(b), the committee shall assign a unique identifying title or code to each such program or activity, shall state the allocation ratio calculated for the program or activity according to 11 CFR 106.6(d), and shall explain the manner in which the ratio was derived.

The committee shall also summarize the total amounts spent by the Federal and non-Federal accounts that year, to date, for each such program or activity.

- (3) Reporting of transfers between accounts for the purpose of paying allocable expenses. A political committee that pays allocable expenses in accordance with 11 CFR 106.6(e) shall report each transfer of funds from its non-Federal account to its Federal account or to its separate allocation account for the purpose of paying such expenses. In the report covering the period in which each transfer occurred, the committee shall explain in a memo entry the allocable expenses to which the transfer relates and the date on which the transfer was made. If the transfer includes funds for the

allocable costs of more than one activity, the committee shall itemize the transfer, showing the amounts designated for administrative expenses and generic voter drives, and for each fundraising program, as described in 11 CFR 106.6(b).

- (4) Reporting of allocated disbursements. A political committee that pays allocable expenses in accordance with 11 CFR 106.6(e) shall also report each disbursement from its Federal account or its separate allocation account in payment for a joint Federal and non-Federal expense or activity. In the report covering the period in which the disbursement occurred, the committee shall state the full name and address of each person to whom the disbursement was made, and the date, amount, and purpose of each such disbursement. If the disbursement includes payment for the allocable costs of more than one activity, the committee shall itemize the disbursement, showing the amounts designated for payment of administrative expenses and generic voter drives, and for each fundraising program, as described in 11 CFR 106.6(b). The committee shall also report the total amount expended by the committee that year, to date, for each category of activity.
- (5) Recordkeeping. The treasurer shall retain all documents supporting the committee's allocated disbursements for three years, in accordance with 11 CFR 104.14.

13. Part 104 is amended by adding section 104.17 to read as follows:

§ 104.17 Reporting of allocable expenses by party committees.

(a) Expenses allocated among candidates. A national party committee making an expenditure on behalf of more than one clearly identified candidate for Federal office must report the allocation between or among the named candidates. A national party committee making expenditures and disbursements on behalf of one or more clearly identified Federal candidates and on behalf of one or more clearly identified non-Federal candidates must report the allocation among all named candidates. These payments shall be allocated among candidates pursuant to 11 CFR part 106, but only Federal funds may be used for such payments. A State, district, or local party committee making expenditures and disbursements for Federal election activity as defined at 11 CFR 100.24 on behalf of one or more clearly identified Federal and one or more clearly identified non-Federal candidates must make the payments from its Federal account and must report the allocation among all named candidates. A State, district, or local party committee making expenditures and disbursements on behalf of one or more clearly identified Federal and one or more clearly identified non-Federal candidates where the activity is not a Federal election activity may allocate the payments between its Federal and non-Federal account and must report the allocation among all named candidates. For allocated expenditures, the committee must report the amount of each in-kind contribution, independent expenditure, or coordinated expenditure attributed to each candidate. If a payment also includes amounts attributable to one or more non-Federal candidates, and is made by a State, district, or local party committee with separate Federal and non-Federal accounts, and is not for a Federal election activity, then the

payment shall be made according to the procedures set forth in 11 CFR 106.7(f), but shall be reported pursuant to paragraphs (a)(1) through (a)(4) of this section, as follows:

- (1) Reporting of allocation of expenses attributable to specific Federal and non-Federal candidates. In each report disclosing a payment that includes both expenditures on behalf of one or more Federal candidates and disbursements on behalf of one or more non-Federal candidates, the committee must assign a unique identifying title or code to each program or activity conducted on behalf of such candidates, state the allocation ratio calculated for the program or activity, and explain the manner in which the ratio applied to each candidate was derived. The committee must also summarize the total amounts attributed to each candidate, to date, for each program or activity.
- (2) Reporting of transfers between accounts for the purpose of paying expenses attributable to specific Federal and non-Federal candidates. A State, district, or local party committee that pays allocable expenses in accordance with 11 CFR 106.7(f) shall report each transfer of funds from its non-Federal account to its Federal account or to its separate allocation account for the purpose of paying such expenses. In the report covering the period in which each transfer occurred, the State, district, or local party committee shall explain in a memo entry the allocable expenses to which the transfer relates and the date on which the transfer was made. If the transfer includes funds for the allocable costs of more than one program or activity, the State, district, or local party committee must itemize the

transfer, showing the amounts designated for each program or activity conducted on behalf of one or more clearly identified Federal candidates and one or more clearly identified non-Federal candidates.

- (3) Reporting of allocated disbursements attributable to specific Federal and non-Federal candidates. A State, district, or local committee that pays allocable expenses in accordance with 11 CFR 106.7(f) shall also report each disbursement from its Federal account or its separate allocation account in payment for a program or activity conducted on behalf of one or more clearly identified Federal candidates and one or more clearly identified non-Federal candidates. In the report covering the period in which the disbursement occurred, the State, district, or local party committee shall state the full name and address of each person to whom the disbursement was made, and the date, amount, and purpose of each such disbursement. If the disbursement includes payment for the allocable costs of more than one program or activity, the committee shall itemize the disbursement, showing the amounts designated for payment of each program or activity conducted on behalf of one or more clearly identified Federal candidates and one or more clearly identified non-Federal candidates. The State, district, or local party committee must also report the amount of each in-kind contribution, independent expenditure, or coordinated expenditure attributed to each Federal candidate, and the total amount attributed to the non-Federal candidate(s). In addition, the State,

district, or local party committee must report the total amount expended by the committee that year, to date, for each joint program or activity.

- (4) Recordkeeping. The treasurer of a State, district, or local party committee must retain all documents supporting the committee's allocations on behalf of specific Federal and non-Federal candidates, in accordance with 11 CFR 104.14.

(b) Allocation of activities that are not Federal election activities. A State, district, or local committee of a political party that has established separate Federal and non-Federal accounts, including related allocation accounts, under 11 CFR 102.5 must report all payments that are allocable between these accounts pursuant to the allocation rules in 11 CFR 106.7. Disbursements for activities that are allocable between Federal and Levin accounts, including related allocation accounts, must be reported pursuant to 11 CFR 300.36.

- (1) Reporting of allocations of expenses for activities that are not Federal election activities.

- (i) In the first report in a calendar year disclosing a disbursement allocable pursuant to 11 CFR 106.7, a State, district, or local committee shall state and explain the allocation percentages to be applied to each category of allocable activity (e.g., 36% Federal/64% non-Federal in Presidential and Senate election years) pursuant to 11 CFR 106.7(d).
- (ii) In each subsequent report in the calendar year itemizing an allocated disbursement, the State, district, or local party committee

shall state the category of activity for which each allocated disbursement was made, and shall summarize the total amounts expended from Federal and non-Federal accounts, or from allocation accounts, that year to date for each such category.

- (iii) In each report disclosing disbursements for allocable activities as described in 11 CFR 106.7, the State, district, or local party committee shall assign a unique identifying title or code to each such program or activity, and shall state the applicable Federal/non-Federal percentage for any direct costs of fundraising. Unique identifying titles or codes are not required for salaries and wages allocated pursuant to 11 CFR 106.7(c)(1), or for other administrative costs allocated pursuant to 11 CFR 106.7(c)(2).

- (2) Reporting of transfers between the accounts of State, district, and local party committees and into allocation accounts for allocable expenses. A State, district, or local committee of a political party that pays allocable expenses in accordance with 11 CFR 106.7 shall report each transfer of funds from its non-Federal account to its Federal account, or each transfer from its Federal account and its non-Federal account into an allocation account, for the purpose of payment of such expenses. In the report covering the period in which each transfer occurred, the State, district, or local party committee must explain in a memo entry the allocable expenses to which the transfer relates and the date on which the transfer was made. If the transfer includes funds for the allocable costs of more

than one activity, the State, district, or local party committee must itemize the transfer, showing the amounts designated for each category of expense as described in 11 CFR 106.7.

(3) Reporting of allocated disbursements for certain allocable activity that is not Federal election activity.

- (i) A State, district, or local committee of a political party that pays allocable expenses in accordance with 11 CFR 106.7 shall report each disbursement from its Federal account for allocable expenses, or each payment from an allocation account for such activity. In the report covering the period in which the disbursement occurred, the State, district, or local committee shall state the full name and address of each individual or vendor to which the disbursement was made, the date, amount, and purpose of each such disbursement, and the amounts allocated to Federal and non-Federal portions of the allocable activity. If the disbursement includes payment for the allocable costs of more than one activity, the State, district, or local party committee must itemize the disbursement, showing the amounts designated for payments of particular categories of activity as described in 11 CFR 106.7. The State, district, or local party committee must also report the total amount paid that calendar year to date for each category of allocable activity.

- (ii) A State, district, or local committee of a political party that pays allocable expenses from a Federal account and a Levin account in accordance with 11 CFR 300.33 shall report disbursements from those accounts according to the requirements of 11 CFR 300.36.
- (4) Recordkeeping. The treasurer of a State, district, or local party committee must retain all documents supporting the committee's allocations of expenditures and disbursements for the costs and activities cited at paragraph (b) of this section, in accordance with 11 CFR 104.14.

PART 106 – ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

14. The authority citation for part 106 continues to read as follows:

Authority: 2 U.S.C. 438(a)(8), 441a(b), 441a(g).

15. Section 106.1 is amended by revising paragraphs (a)(1), (a)(2), and (e) to read as follows:

§ 106.1 Allocation of expenses between candidates.

- (a) General rule.
 - (1) Expenditures, including in-kind contributions, independent expenditures, and coordinated expenditures made on behalf of more than one clearly identified Federal candidate shall be attributed to each such candidate according to the benefit reasonably expected to be derived. For example, in the case of a publication or broadcast communication, the attribution shall be determined by the proportion of space or time devoted to each

candidate as compared to the total space or time devoted to all candidates. In the case of a fundraising program or event where funds are collected by one committee for more than one clearly identified candidate, the attribution shall be determined by the proportion of funds received by each candidate as compared to the total receipts by all candidates. In the case of a phone bank, the attribution shall be determined by the number of questions or statements devoted to each candidate as compared to the total number of questions or statements devoted to all candidates. These methods shall also be used to allocate payments involving both expenditures on behalf of one or more clearly identified Federal candidates and disbursements on behalf of one or more clearly identified non-Federal candidates.

- (2) An expenditure made on behalf of more than one clearly identified Federal candidate shall be reported pursuant to 11 CFR 104.10(a) or 104.17(a), as appropriate. A payment that also includes amounts attributable to one or more non-Federal candidates, and that is made by a political committee with separate Federal and non-Federal accounts, shall be made according to the procedures set forth in 11 CFR 106.6(e) or 106.7(f), but shall be reported pursuant to 11 CFR 104.10(a) or 104.17(a). If a State, district, or local party committee's payment on behalf of both a Federal candidate and a non-Federal candidate is for a Federal election activity, only Federal funds may be used for the entire payment. For Federal election activities,

the provisions of 11 CFR 300.33 and 104.17(a) will apply to payments attributable to candidates.

* * * * *

(e) State, district, and local party committees, separate segregated funds, and nonconnected committees that make mixed Federal/non-Federal payments for activities other than an activity entailing an expenditure for a Federal candidate and disbursement for a non-Federal candidate, or that make mixed Federal/Levin fund payments, shall allocate those expenses in accordance with 11 CFR 106.6, 106.7, or 300.33, as appropriate.

16. Section 106.5 is revised to read as follows:

§ 106.5 Allocation of expenses between federal and non-federal activities by national party committees.

(a) General rules.

(1) Disbursements from Federal and non-Federal accounts. National party committees that make disbursements in connection with Federal and non-Federal elections shall make those disbursements entirely from funds subject to the prohibitions and limitations of the Act, or from accounts established pursuant to 11 CFR 102.5. Political committees that have established separate Federal and non-Federal accounts under 11 CFR 102.5(a)(1)(i) shall allocate expenses between those accounts according to this section. Organizations that are not political committees but have established separate Federal and non-Federal accounts under 11 CFR 102.5(b)(1)(i), or that make Federal and non-Federal disbursements from a

single account under 11 CFR 102.5(b)(1)(ii), shall also allocate their Federal and non-Federal expenses according to this section. This section covers:

- (i) General rules regarding allocation of Federal and non-Federal expenses by party committees;
 - (ii) Percentages to be allocated for administrative expenses and costs of generic voter drives by national party committees;
 - (iii) Methods for allocation of administrative expenses, costs of generic voter drives, and of fundraising costs by national party committees; and
 - (iv) Procedures for payment of allocable expenses. Requirements for reporting of allocated disbursements are set forth in 11 CFR 104.10.
- (2) Costs to be allocated. National party committees that make disbursements in connection with Federal and non-Federal elections shall allocate expenses according to this section for the following categories of activity:
- (i) Administrative expenses including rent, utilities, office supplies, and salaries, except for such expenses directly attributable to a clearly identified candidate;
 - (ii) The direct costs of a fundraising program or event including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where Federal and

non-Federal funds are collected by one committee through such program or event; and

(iii) [Removed and reserved]

(iv) Generic voter drives including voter identification, voter registration, and get-out-the-vote drives, or any other activities that urge the general public to register, vote or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate.

(b) National party committees other than Senate or House campaign committees; fixed percentages for allocating administrative expenses and costs of generic voter drives.

(1) General rule. Each national party committee other than a Senate or House campaign committee shall allocate a fixed percentage of its administrative expenses and costs of generic voter drives, as described in paragraph (a)(2) of this section, to its Federal and non-Federal account(s) each year. These percentages shall differ according to whether or not the allocable expenses were incurred in a presidential election year. Such committees shall allocate the costs of each combined Federal and non-Federal fundraising program or event according to paragraph (f) of this section, with no fixed percentages required.

(2) Fixed percentages according to type of election year. National party committees other than the Senate or House campaign committees shall allocate their administrative expenses and costs of generic voter drives according to paragraphs (b)(2) (i) and (ii) as follows:

- (i) Presidential election years. In presidential election years, national party committees other than the Senate or House campaign committees shall allocate to their Federal accounts at least 65% each of their administrative expenses and costs of generic voter drives.
 - (ii) Non-presidential election years. In all years other than presidential election years, national party committees other than the Senate or House campaign committees shall allocate to their Federal accounts at least 60% each of their administrative expenses and costs of generic voter drives.
- (c) Senate and House campaign committees of a national party; method and minimum Federal percentage for allocating administrative expenses and costs of generic voter drives.
 - (1) Method for allocating administrative expenses and costs of generic voter drives. Subject to the minimum percentage set forth in paragraph (c)(2) of this section, each Senate or House campaign committee of a national party shall allocate its administrative expenses and costs of generic voter drives, as described in paragraph (a)(2) of this section, according to the funds expended method, described in paragraphs (c)(1)(i) and (ii) as follows:
 - (i) Under this method, expenses shall be allocated based on the ratio of Federal expenditures to total Federal and non-Federal disbursements made by the committee during the two-year Federal election cycle. This ratio shall be estimated and reported at the

beginning of each Federal election cycle, based upon the committee's Federal and non-Federal disbursements in a prior comparable Federal election cycle or upon the committee's reasonable prediction of its disbursements for the coming two years. In calculating its Federal expenditures, the committee shall include only amounts contributed to or otherwise spent on behalf of specific federal candidates. Calculation of total Federal and non-Federal disbursements shall also be limited to disbursements for specific candidates, and shall not include overhead or other generic costs.

- (ii) On each of its periodic reports, the committee shall adjust its allocation ratio to reconcile it with the ratio of actual Federal and non-Federal disbursements made, to date. If the non-Federal account has paid more than its allocable share, the committee shall transfer funds from its Federal to its non-Federal account, as necessary, to reflect the adjusted allocation ratio. The committee shall make note of any such adjustments and transfers on its periodic reports, submitted pursuant to 11 CFR 104.5.

- (2) Minimum Federal percentage for administrative expenses and costs of generic voter drives. Regardless of the allocation ratio calculated under paragraph (c)(1) of this section, each Senate or House campaign committee of a national party shall allocate to its Federal account at least 65% each of its administrative expenses and costs of generic voter drives

each year. If the committee's own allocation calculation under paragraph (c)(1) of this section yields a Federal share greater than 65%, then the higher percentage shall be applied. If such calculation yields a Federal share lower than 65%, then the committee shall report its calculated ratio according to 11 CFR 104.10(b), and shall apply the required minimum Federal percentage.

- (3) Allocation of fundraising costs. Senate and House campaign committees shall allocate the costs of each combined Federal and non-Federal fundraising program or event according to paragraph (f) of this section, with no minimum percentages required.

(d) [Removed and reserved].

(e) [Removed and reserved].

(f) National party committees; method for allocating direct costs of fundraising.

- (1) If Federal and non-Federal funds are collected by one committee through a joint activity, that committee shall allocate its direct costs of fundraising, as described in paragraph (a)(2) of this section, according to the funds received method. Under this method, the committee shall allocate its fundraising costs based on the ratio of funds received into its Federal account to its total receipts from each fundraising program or event. This ratio shall be estimated prior to each such program or event based upon the committee's reasonable prediction of its Federal and non-Federal revenue from that program or event, and shall be noted in the committee's report for the period in which the first disbursement for such program or

event occurred, submitted pursuant 11 CFR 104.5. Any disbursements for fundraising costs made prior to the actual program or event shall be allocated according to this estimated ratio.

- (2) No later than the date 60 days after each fundraising program or event from which both Federal and non-Federal funds are collected, the committee shall adjust the allocation ratio for that program or event to reflect the actual ratio of funds received. If the non-Federal account has paid more than its allocable share, the committee shall transfer funds from its Federal to its non-Federal account, as necessary, to reflect the adjusted allocation ratio. If the Federal account has paid more than its allocable share, the committee shall make any transfers of funds from its non-federal to its federal account to reflect the adjusted allocation ratio within the 60-day time period established by this paragraph. The committee shall make note of any such adjustments and transfers in its report for any period in which a transfer was made, and shall also report the date of the fundraising program or event that serves as the basis for the transfer. In the case of a telemarketing or direct mail campaign, the date for purposes of this paragraph is the last day of the telemarketing campaign, or the day on which the final direct mail solicitations are mailed.

(g) Payment of allocable expenses by committees with separate Federal and non-Federal accounts.

- (1) Payment options. Committees that have established separate Federal and non-Federal accounts under 11 CFR 102.5(a)(1)(i) or (b)(1)(i) shall pay

the expenses of joint Federal and non-Federal activities described in paragraph (a)(2) of this section according to either paragraph (g)(1)(i) or (ii), as follows:

- (i) Payment by Federal account; transfers from non-Federal account to Federal account. The committee shall pay the entire amount of an allocable expense from its Federal account and shall transfer funds from its non-Federal account to its Federal account solely to cover the non-Federal share of that allocable expense.
- (ii) Payment by separate allocation account; transfers from Federal and non-Federal accounts to allocation account.
 - (A) The committee shall establish a separate allocation account into which funds from its Federal and non-Federal accounts shall be deposited solely for the purpose of paying the allocable expenses of joint Federal and non-Federal activities. Once a committee has established a separate allocation account for this purpose, all allocable expenses shall be paid from that account for as long as the account is maintained.
 - (B) The committee shall transfer funds from its Federal and non-Federal accounts to its allocation account in amounts proportionate to the Federal or non-Federal share of each allocable expense.

- (C) No funds contained in the allocation account may be transferred to any other account maintained by the committee.

(2) Timing of transfers between accounts.

- (i) Under either payment option described in paragraphs (g)(1)(i) or (ii) of this section, the committee shall transfer funds from its non-Federal account to its Federal account or from its Federal and non-Federal accounts to its separate allocation account following determination of the final cost of each joint Federal and non-Federal activity, or in advance of such determination if advance payment is required by the vendor and if such payment is based on a reasonable estimate of the activity's final cost as determined by the committee and the vendor(s) involved.
- (ii) Funds transferred from a committee's non-Federal account to its Federal account or its allocation account are subject to the following requirements:
 - (A) For each such transfer, the committee must itemize in its reports the allocable activities for which the transferred funds are intended to pay, as required by 11 CFR 104.10(b)(3); and
 - (B) Except as provided in paragraph (f)(2) of this section, such funds may not be transferred more than 10 days before or

more than 60 days after the payments for which they are designated are made.

- (iii) Any portion of a transfer from a committee's non-Federal account to its Federal account or its allocation account that does not meet the requirements of paragraph (g)(2)(ii) of this section shall be presumed to be a loan or contribution from the non-Federal account to a Federal account, in violation of the Act.

- (3) Reporting transfers of funds and allocated disbursements. A political committee that transfers funds between accounts and pays allocable expenses according to this section shall report each such transfer and disbursement pursuant to 11 CFR 104.10(b).

- (b) Sunset provision. This section applies from November 6, 2002, to December 31, 2002. After December 31, 2002, see 11 CFR 106.7(a).

17. Section 106.7 is added to part 106 to read as follows:

§ 106.7 Allocation of expenses between Federal and non-Federal accounts by party committees, other than for Federal election activities.

(a) National party committees are prohibited from raising or spending non-Federal funds. Therefore, these committees shall not allocate expenditures and disbursements between Federal and non-Federal accounts. All disbursements by a national party committee must be made from a Federal account.

(b) State, district, and local party committees that make expenditures and disbursements in connection with both Federal and non-Federal elections for activities that are not Federal election activities pursuant to 11 CFR 100.24 may use only funds

subject to the prohibitions and limitations of the Act, or they may allocate such expenditures and disbursements between their Federal and their non-Federal accounts. State, district, and local party committees that are political committees that have established separate Federal and non-Federal accounts under 11 CFR 102.5(a)(1)(i) shall allocate expenses between those accounts according to paragraphs (c) and (d) of this section. Party organizations that are not political committees but have established separate Federal and non-Federal accounts, or that make Federal and non-Federal disbursements from a single account, shall also allocate their Federal and non-Federal expenses according to paragraphs (c) and (d) of this section. In lieu of establishing separate accounts, party organizations that are not political committees may choose to use a reasonable accounting method (including any method embedded in software provided or approved by the Commission) pursuant to 11 CFR 102.5 and 300.30.

(c) Costs allocable by State, district, and local party committees between Federal and non-Federal accounts.

- (1) Salaries and wages. State, district, and local party committees must pay salaries and wages from funds that comply with State law for employees who spend 25% or less of their time in any given month on Federal election activity or activity in connection with a Federal election. See 11 CFR 300.33(c)(2).
- (2) Administrative costs. State, district, and local party committees may either pay administrative costs, including rent, utilities, office equipment, office supplies, postage for other than mass mailings, and routine building maintenance, upkeep and repair, from their Federal account, or allocate

such expenses between their Federal and non-Federal accounts, except that any such expenses directly attributable to a clearly identified Federal candidate must be paid only from the Federal account.

- (3) Exempt party activities that are not Federal election activities. State, district, and local party committees may pay expenses for party activities that are exempt from the definitions of contribution and expenditure under 11 CFR 100.7(b)(9), (15), or (17), and 100.8(b)(10), (16), or (18), that are conducted in conjunction with non-Federal activity, and that are not Federal election activities pursuant to 11 CFR 100.24, from their Federal accounts, or may allocate these expenses between their Federal and non-Federal accounts.
- (4) Certain fundraising costs. State, district, and local party committees may allocate the direct costs of certain fundraising programs or events between their Federal and non-Federal accounts provided that none of the proceeds from the activities or events will ever be used for Federal election activities. The proceeds of fundraising allocated pursuant to this paragraph must be segregated in bank accounts that are never used for Federal election activity. Direct costs of fundraising include disbursements for the planning and administration of specific fundraising events or programs.
- (5) Voter-drive activities that do not qualify as Federal election activities and that are not party exempt activities. Other than for salaries and wages as described in paragraph (c)(1) of this section, expenses for voter

identification, voter registration, and get-out-the-vote drives, and any other activities that urge the general public to register or vote, or that promote or oppose a political party, without promoting or opposing a candidate or non-Federal candidate, that do not qualify as Federal election activities and that are not exempt party activities, must be paid with Federal funds or may be allocated between the committee's Federal and non-Federal accounts.

(d) Allocation percentages, ratios, and record-keeping.

(1) Salaries and wages. Committees must keep a monthly log of the percentage of time each employee spends in connection with a Federal election. Allocations of salaries and wages shall be undertaken as follows:

(i) Salaries and wages paid for employees who spend 25% or less of their compensated time in a given month on Federal election activities or on activities in connection with a Federal election shall be paid from funds that comply with State law.

(ii) Salaries and wages paid for employees who spend more than 25% of their compensated time in a given month on Federal election activities or on activities in connection with a Federal election must be paid only from a Federal account. See 11 CFR 300.33(c)(2), and paragraph (e)(2) of this section.

(2) Administrative costs. State, district, and local party committees that choose to allocate administrative expenses may do so subject to the following requirements:

- (i) Presidential election years. In any even year in which a Presidential candidate, but no Senate candidate appears on the ballot, and in the preceding year, State, district, and local party committees must allocate at least 28% of administrative expenses to their Federal accounts.
 - (ii) Presidential and Senate election year. In any even year in which a Presidential candidate and a Senate candidate appear on the ballot, and in the preceding year, State, district, and local party committees must allocate at least 36% of administrative expenses to their Federal accounts.
 - (iii) Senate election year. In any even year in which a Senate candidate, but no Presidential candidate, appears on the ballot, and in the preceding year, State, district, and local party committees must allocate at least 21% of administrative expenses to their Federal account.
 - (iv) Non-Presidential and non-Senate year. In any even year in which neither a Presidential nor a Senate candidate appears on the ballot, and in the preceding year, State, district, and local party committee must allocate at least 15% of administrative expenses to their Federal account.
- (3) Exempt party activities and voter drive activities that are not Federal election activities. State, district, and local party committees that choose to allocate expenses for exempt activities conducted in conjunction with

non-Federal activities and voter drive activities, that are not Federal election activities, must do so subject to the following requirements:

- (i) Presidential election years. In any even year in which a Presidential candidate, but no Senate candidate appears on the ballot, and in the preceding year, State, district, and local party committees must allocate at least 28% of these expenses to their Federal accounts.
- (ii) Presidential and Senate election year. In any even year in which a Presidential candidate and a Senate candidate appear on the ballot, and in the preceding year, State, district, and local party committees must allocate at least 36% of these expenses to their Federal accounts.
- (iii) Senate election year. In any even year in which a Senate candidate, but no Presidential candidate, appears on the ballot, and in the preceding year, State, district, and local party committees must allocate at least 21% of these expenses to their Federal account.
- (iv) Non-Presidential and non-Senate year. In any even year in which neither a Presidential nor a Senate candidate appears on the ballot, and in the preceding year, State, district, and local party committee must allocate at least 15% of these expenses to their Federal account.

- (4) Fundraising for Federal and non-Federal accounts. If Federal and non-Federal funds are collected by a State, district, or local party committee through a joint fundraising activity, that committee must allocate its direct fundraising costs using the funds received method and according to the following procedures:
- (i) The committee must allocate its fundraising costs based on the ratio of funds received into its Federal account to its total receipts from each fundraising program or event. This ratio shall be estimated prior to each such program or event based upon the committee's reasonable prediction of its Federal and non-Federal revenue from that program or event, and must be noted in the committee's report for the period in which the first disbursement for such program or event occurred, submitted pursuant to 11 CFR 104.5. Any disbursements for fundraising costs made prior to the actual program or event must be allocated according to this estimated ratio.
 - (ii) No later than the date 60 days after each fundraising program or event from which both Federal and non-Federal funds are collected, the committee shall adjust the allocation ratio for that program or event to reflect the actual ratio of funds received. If the non-Federal account has paid more than its allocable share, the committee shall transfer funds from its Federal to its non-Federal account, as necessary, to reflect the adjusted allocation ratio. If the

Federal account has paid more than its allocable share, the committee shall make any transfers of funds from its non-Federal to its Federal account to reflect the adjusted allocation ratio within the 60-day time period established by this paragraph. The committee shall make note of any such adjustments and transfers in its report for any period in which a transfer was made, and shall also report the date of the fundraising program or event that serves as the basis for the transfer. In the case of a telemarketing or direct mail campaign, the date for purposes of this paragraph is the last day of the telemarketing campaign, or the day on which the final direct mail solicitations are mailed.

(e) Costs not allocable by State, district, and local party committees between Federal and non-Federal accounts. The following costs incurred by State, district, and local party committees shall be paid only with Federal funds:

- (1) Disbursements for State, district, and local party committees for activities that refer only to one or more candidates for Federal office must not be allocated. All such disbursements must be made from a Federal account.
- (2) Salaries and wages. Salaries and wages for employees who spend more than 25% of their compensated time in a given month on activities in connection with a Federal election must not be allocated. All such disbursements must be made from a Federal account. See 11 CFR 300.33(c)(2).

- (3) Federal election activities. Activities that are Federal election activities pursuant to 11 CFR 100.24 must not be allocated between Federal and non-Federal accounts. Only Federal funds, or a mixture of Federal funds and Levin funds, as provided in 11 CFR 300.33, may be used.
- (4) Fundraising Costs. Expenses incurred by State, district, and local party committees directly related to programs or events undertaken to raise funds to be used, in whole or in part, for activities in connection with Federal and non-Federal elections that are Federal election activities pursuant to 11 CFR 100.24 must not be allocated between Federal and non-Federal accounts. Except as provided in 11 CFR 300.32(a)(4), all such disbursements must be made from a Federal account.
- (f) Transfers between accounts to cover allocable expenses. State, district, and local party committees may transfer funds from their non-Federal to their Federal accounts or to an allocation account solely to meet allocable expenses under this section and only pursuant to the following requirements:
 - (1) Payments from Federal accounts or from allocation accounts.
 - (i) State, district, and local party committees must pay the entire amount of an allocable expense from their Federal accounts and transfer funds from their non-Federal account to the Federal account solely to cover the non-Federal share of that allocable expense; or

- (ii) State, district, or local party committees may establish a separate allocation account into which funds from its Federal and non-Federal accounts may be deposited solely for the purpose of paying the allocable expenses of joint Federal and non-Federal activities.
- (2) Timing.
 - (i) If a Federal or allocation account is used to make allocable expenditures and disbursements, State, district, and local party committees must transfer funds from their non-Federal to their Federal or allocation account to meet allocable expenses no more than 10 days before and no more than 60 days after the payments for which they are designated are made from a Federal or allocation account, except that transfers may be made more than 10 days before a payment is made from the Federal or allocation account if advance payment is required by the vendor(s) and if such payment is based on a reasonable estimate of the activity's final costs as determined by the committee and the vendor(s) involved.
 - (ii) Any portion of a transfer from a committee's non-Federal account to its Federal or allocation account that does not meet the requirement of paragraph (1)(2)(i) of this section shall be presumed to be a loan or contribution from the non-Federal account to the Federal or allocation account, in violation of the Act.

PART 108 – FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS (2 U.S.C. 439)

18. The authority citation for part 108 continues to read as follows:

Authority: 2 U.S.C. 434(a)(2), 438(a)(8), 439, 453.

19. Section 108.7 is amended by revising paragraphs (c)(4) and (c)(5) and adding paragraph (c)(6) to read as follows:

§ 108.7 Effect on State law (2 U.S.C. 453).

* * * *

(c) * * *

- (4) Prohibition of false registration, voting fraud, theft of ballots, and similar offenses;
- (5) Candidate's personal financial disclosure; or
- (6) Application of State law to the funds used for the purchase or construction of a State or local party office building to the extent described in 11 CFR 300.35.

PART 110 – CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

20. The authority citation for part 110 continues to be read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g, 441h.

21. Section 110.1 is amended by adding new paragraph (c)(5) to read as follows:

§ 110.1 **Contributions by persons other than multicandidate political committees**

(2 U.S.C. 441a(a)(1)).

* * * * *

(c) * * *

- (5) On or after January 1, 2003, no person shall make contributions to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed \$10,000.

* * * * *

PART 114 – CORPORATE AND LABOR ORRGANIZATION ACTIVITY

22. The authority citation for part 114 continues to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 434(a)(11), 437d(a)(8), 438(a)(8), 441b.

23. Section 114.1 is amended by revising paragraph (a)(2)(ix) to read as follows:

§ 114.1 **Definitions.**

(a) * * *

(2) * * *

- (ix) Donations to a State or local party committee used for the purchase or construction of its office building are subject to 11 CFR 300.35. No exception applies to contributions or donations to a national

party committee that are made or used for the purchase or
construction of any office building or facility; or

* * * * *

24. Subchapter C is added to Chapter I to read as follows:

SUBCHAPTER C – BCRA REGULATIONS

PART 300 – NON-FEDERAL FUNDS

Sec.

300.1 Scope, effective date, and organization.

300.2 Definitions.

Subpart A – National Party Committees

300.10 General prohibitions on raising and spending non-Federal funds.

300.11 Prohibition on fundraising for and donating to certain tax-exempt
organizations.

300.12 Transition rules.

300.13 Reporting.

Subpart B – State, District, and Local Party Committees and Organizations

300.30 Accounts.

300.31 Receipt of Levin funds.

300.32 Expenditures and disbursements.

300.33 Allocation.

- 300.34 Transfers.
- 300.35 Office buildings.
- 300.36 Reporting Federal election activity; recordkeeping.
- 300.37 Prohibitions on fundraising for and donating to certain tax-exempt organizations.

Subpart C – Tax-exempt Organizations

- 300.50 Prohibited fundraising by national party committees (2 U.S.C. 441i(d)).
- 300.51 Prohibited fundraising by State, district, and local party committees (2 U.S.C. 441i(d)).
- 300.52 Fundraising by Federal candidates and Federal officeholders (2 U.S.C. 441i(e)(4)).

Subpart D – Federal Candidates and Officeholders

- 300.60 Scope.
- 300.61 Federal elections.
- 300.62 Non-Federal elections.
- 300.63 Exception for State party candidates
- 300.64 Exemption for attending or speaking at fundraising events.
- 300.65 Exceptions for certain tax-exempt organizations.

Subpart E – State and Local Candidates

- 300.70 Scope.

300.71 Federal funds required for certain public communications

(2 U.S.C. 441i(f)(1)).

300.72 Federal funds not required for certain communications (2 U.S.C. 441i(f)(2)).

Authority: 2 U.S.C. 434(e), 438(a)(8), 441a(a)(i), 441i, 453.

§ 300.1 Scope and effective date, and organization.

(a) Introduction. This part implements changes to the Federal Election Campaign Act of 1971, as amended ("FECA" or the "Act"), enacted by Title I of the Bipartisan Campaign Finance Reform Act of 2002 ("BCRA"). Public Law 107-155. Unless expressly stated to the contrary, nothing in this part alters the definitions, restrictions, liabilities, and obligations imposed by sections 431 to 455 of Title 2, United States Code, or regulations prescribed thereunder (11 CFR parts 100 to 116).

(b) Effective dates.

(1) Except as otherwise specifically provided in this part, this part shall take effect on November 6, 2002. However, subpart B of this part shall not apply with respect to runoff elections, recounts, or election contests resulting from elections held prior to such date. See 11 CFR 300.12 for transition rules applicable to subpart A of this part.

(2) The increase in individual contribution limits to State committees of political parties, as described in 11 CFR 110.1(c)(5), shall apply to contributions made on or after January 1, 2003.

(c) Organization of part. Part 300, which generally addresses non-Federal funds and closely related topics, is organized into five subparts. Each subpart is oriented to the perspective of a category of persons facing issues related to non-Federal funds.

- (1) Subpart A of this part prescribes rules pertaining to national party committees, including general non-Federal funds prohibitions, fundraising, and donation prohibitions with regard to certain tax-exempt organizations, transition rules as BCRA takes effect, and reporting.
- (2) Subpart B of this part pertains to State, district, and local political party committees and organizations. Subpart B of this part focuses on “Levin Amendment” to BCRA; office buildings; and fundraising and donation prohibitions with regard to certain tax-exempt organizations.
- (3) Subpart C of this part addresses non-Federal funds from the perspective of tax-exempt organizations, setting out rules about prohibited fundraising for certain tax-exempt organizations by national party committees, State, district, and local party committees, and Federal candidates and officeholders.
- (4) Subpart D of this part includes regulations pertaining to soliciting non-Federal funds from the perspective of Federal candidates and officeholders in Federal and non-Federal elections; including exceptions for those who are also State candidates and exemptions for those attending, speaking, and appearing as featured guests at fundraising events, or who solicit for certain tax-exempt organizations.
- (5) Subpart E of this part focuses on State and local candidates, including

regulations about using Federal funds for certain public communications, and exceptions for entirely non-Federal communications.

- (6) For rules pertaining to convention and host committees, see 11 CFR part 9008.

§ 300.2 Definitions.

(a) A 501(c) organization that makes expenditures or disbursements in connection with a Federal election as that term is used in 11 CFR 300.11, 300.37, 300.50, and 300.51 includes an organization that, within the current election cycle, plans to:

- (1) Make expenditures or disbursements in connection with an election for Federal office including for Federal election activity; or
- (2) Pay a debt incurred from the making of expenditures or disbursements in connection with an election for Federal office (including for Federal election activity) in a prior election cycle.

(b) Agent. For the purposes of part 300 of chapter I, agent means any person who has actual authority, either express or implied, to engage in any of the following activities on behalf of the specified persons:

- (1) In the case of a national committee of a political party:
 - (i) To solicit, direct, or receive any contribution, donation, or transfer of funds; or,
 - (ii) To solicit any funds for, or make or direct any donations to, an organization that is described in 26 U.S.C 501(c) and exempt from taxation under 26 U.S.C. 501(a) (or has submitted an application for determination of tax exempt status under 26 U.S.C. 501(a)), or

an organization described in 26 U.S.C. 527 (other than a political committee, a State, district, or local committee of a political party, or the authorized campaign committee of a candidate for State or local office).

- (2) In the case of a State, district, or local committee of a political party:
 - (i) To expend or disburse any funds for Federal election activity; or
 - (ii) To transfer, or accept a transfer of, funds to make expenditures or disbursements for Federal election activity; or
 - (iii) To engage in joint fundraising activities with any person if any part of the funds raised are used, in whole or in part, to pay for Federal election activity; or
 - (iv) To solicit any funds for, or make or direct any donations to, an organization that is described in 26 U.S.C. 501(c) and exempt from taxation under 26 U.S.C. 501(a) (or has submitted an application for determination of tax exempt status under 26 U.S.C. 501(a)), or an organization described in 26 U.S.C. 527 (other than a political committee, a State, district, or local committee of a political party, or the authorized campaign committee of a candidate for State or local office).
- (3) In the case of an individual who is a Federal candidate or an individual holding Federal office, to solicit, receive, direct, transfer, or spend funds in connection with any election.

- (4) In the case of an individual who is a candidate for State or local office, to spend funds for a public communication (see 11 CFR 100.26).
- (c) Directly or indirectly establish, maintain, finance, or control.
 - (1) This paragraph (c) applies to national, State, district, and local committees of a political party, candidates, and holders of Federal office, including an officer, employee, or agent of any of the foregoing persons, which shall be referred to as "sponsors" in this section.
 - (2) To determine whether a sponsor directly or indirectly established, finances, maintains, or controls an entity, the factors described in paragraphs (c)(2)(i) through (x) of this section must be examined in the context of the overall relationship between sponsor and the entity to determine whether the presence of any factor or factors is evidence that the sponsor directly or indirectly established, finances, maintains, or controls the entity. Such factors include, but are not limited to:
 - (i) Whether a sponsor, directly or through its agent, owns controlling interest in the voting stock or securities of the entity;
 - (ii) Whether a sponsor, directly or through its agent, has the authority or ability to direct or participate in the governance of the entity through provisions of constitutions, bylaws, contracts, or other rules, or through formal or informal practices or procedures;
 - (iii) Whether a sponsor, directly or through its agent, has the authority or ability to hire, appoint, demote, or otherwise control the officers, or other decision-making employees or members of the entity;

- (iv) Whether a sponsor has a common or overlapping membership with the entity that indicates a formal or ongoing relationship between the sponsor and the entity;
- (v) Whether a sponsor has common or overlapping officers or employees with the entity that indicates a formal or ongoing relationship between the sponsor and the entity;
- (vi) Whether a sponsor has any members, officers, or employees who were members, officers or employees of the entity that indicates a formal or ongoing relationship between the sponsor and the entity, or that indicates the creation of a successor entity;
- (vii) Whether a sponsor, directly or through its agent, provides funds or goods in a significant amount or on an ongoing basis to the entity, such as through direct or indirect payments for administrative, fundraising, or other costs, but not including the transfer to a committee of its allocated share of proceeds jointly raised pursuant to 11 CFR 102.17, and otherwise lawfully;
- (viii) Whether a sponsor, directly or through its agent, causes or arranges for funds in a significant amount or on an ongoing basis to be provided to the entity, but not including the transfer to a committee of its allocated share of proceeds jointly raised pursuant to 11 CFR 102.17, and otherwise lawfully;
- (ix) Whether a sponsor, directly or through its agent, had an active or significant role in the formation of the entity; and

- (x) Whether the sponsor and the entity have similar patterns of receipts or disbursements that indicate a formal or ongoing relationship between the sponsor and the entity.
- (3) Safe harbor. On or after November 6, 2002, an entity shall not be deemed to be directly or indirectly established, maintained, or controlled by another entity unless, based on the entities' actions and activities solely after November 6, 2002, they satisfy the requirements of this section. If an entity receives funds from another entity prior to November 6, 2002, and the recipient entity disposes of the funds prior to November 6, 2002, the receipt of such funds prior to November 6, 2002 shall have no bearing on determining whether the recipient entity is financed by the sponsoring entity within the meaning of this section.
- (4) Determinations by the Commission.
 - (i) A sponsor or entity may request an advisory opinion of the Commission to determine whether the sponsor is no longer directly or indirectly financing, maintaining, or controlling the entity for purposes of this part. The request for such an advisory opinion must meet the requirements of 11 CFR part 112 and must demonstrate that the entity is not directly or indirectly financed, maintained, or controlled by the sponsor.
 - (ii) Notwithstanding the fact that a sponsor may have established an entity within the meaning of paragraph (c)(2) of this section, the sponsor or the entity may request an advisory opinion of the

Commission determining that the relationship between the sponsor and the entity has been severed. The request for such an advisory opinion must meet the requirements of 11 CFR part 112, and must demonstrate that all material connections between the sponsor and the entity have been severed for at least two years.

- (iii) Nothing in this section shall require entities that are separate organizations on November 6, 2002 to obtain an advisory opinion to operate separately from each other.

(d) Disbursement means any purchase or payment made by:

- (1) A political committee; or
- (2) Any other person, including an organization that is not a political committee, that is subject to the Act.

(e) For purposes of part 300, donation means a payment, gift, subscription, loan, advance, deposit, or anything of value given to a person, but does not include contributions.

(f) Federal account means an account at a campaign depository that contains funds to be used in connection with a Federal election.

(g) Federal funds mean funds that comply with the limitations, prohibitions, and reporting requirements of the Act.

(h) Levin account means an account at a campaign depository established by a State, district, or local committee of a political party pursuant to 11 CFR 300.30, for purposes of making expenditures or disbursements for Federal election activity or non-Federal activity (subject to State law) under 11 CFR 300.32.

- (i) Levin funds mean funds that are raised pursuant to 11 CFR 300.31 and are or will be disbursed pursuant to 11 CFR 300.32.
- (j) Non-Federal account means an account that contains funds to be used in connection with a State or local election or allocable expenses under 11 CFR 106.7, 300.30, or 300.33.
- (k) Non-Federal funds mean funds that are not subject to the limitations and prohibitions of the Act.
- (l) [Reserved].
- (m) For the purposes of part 300, to solicit means to ask that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value, whether the contribution, donation, transfer of funds, or thing of value, is to be made or provided directly, or through a conduit or intermediary. A solicitation does not include merely providing information or guidance as to the requirement of particular law.
- (n) For the purposes of part 300, to direct means to ask a person who has expressed an intent to make a contribution, donation, or transfer of funds, or to provide anything of value, to make that contribution, donation, or transfer of funds, or to provide that thing of value, including through a conduit or intermediary. Direction does not include merely providing information or guidance as to the requirement of particular law.
- (o) Individual holding Federal office means an individual elected to or serving in the office of President or Vice President of the United States; or a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

Subpart A – National Party Committees

§ 300.10 General prohibitions on raising and spending non-Federal funds

(2 U.S.C. 441i(a) and (c)).

(a) Prohibitions. A national committee of a political party, including a national congressional campaign committee, must not:

- (1) Solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or any other thing of value that is not subject to the prohibitions, limitations and reporting requirements of the Act;
- (2) Spend any funds that are not subject to the prohibitions, limitations, and reporting requirements of the Act; or
- (3) Solicit, receive, direct, or transfer to another person, or spend, Levin funds.

(b) Fundraising costs. A national committee of a political party, including a national congressional campaign committee, must use only Federal funds to raise funds that are used, in whole or in part, for expenditures and disbursements for Federal election activity.

(c) Application. This section also applies to:

- (1) An officer or agent acting on behalf of a national party committee or a national congressional campaign committee; and
- (2) An entity that is directly or indirectly established, financed, maintained, or controlled by a national party committee or a national congressional campaign committee.

§ 300.11 Prohibitions on fundraising for and donating to certain tax-exempt organizations (2 U.S.C 441i(d)).

(a) Prohibitions. A national committee of a political party, including a national congressional campaign committee, must not solicit any funds for, or make or direct any donations to the following organizations:

- (1) An organization that is described in 26 U.S.C. 501(c) and exempt from taxation under section 26 U.S.C. 501(a) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity;
- (2) An organization that has submitted an application for tax-exempt status under 26 U.S.C. 501(c) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity; or
- (3) An organization described in 26 U.S.C. 527, unless the organization is:
 - (i) A political committee under 11 CFR 100.5;
 - (ii) A State, district, or local committee of a political party; or
 - (iii) The authorized campaign committee of a State or local candidate;

(b) Application. This section also applies to:

- (1) An officer or agent acting on behalf of a national party committee, including a national congressional campaign committee;
- (2) An entity that is directly or indirectly established, financed, maintained, or controlled by a national party committee, including a national

congressional campaign committee, or an officer or agent acting on behalf of such an entity; or

- (3) An entity that is directly or indirectly established, financed, maintained, or controlled by an agent of a national, State, district, or local committee of a political party, including a national congressional campaign committee.

(c) Determining whether a section 501(c) organization makes expenditures or disbursements in connection with Federal elections. In determining whether a section 501(c) organization is one that makes expenditures or disbursements in connection with a Federal election, including expenditures or disbursements for Federal election activity, pursuant to paragraphs (a)(1) and (2) of this section, a national committee of a political party, including a national congressional campaign committee, or any other person described in paragraph (b) of this section, may obtain and rely upon a certification from the organization that satisfies the criteria described in paragraph (d) of this section.

(d) Certification. A national committee of a political party, including a national congressional campaign committee, or any person described in paragraph (b) of this section, may rely upon a certification that meets all of the following criteria:

- (1) The certification is a signed written statement by an officer or other authorized representative of the organization with knowledge of the organization's activities;
- (2) The certification states that within the current election cycle, the organization has not made, and does not intend to make, expenditures or disbursements in connection with an election for Federal office (including for Federal election activity); and

- (3) The certification states that the organization does not intend to pay debts incurred from the making of expenditures or disbursements in connection with an election for Federal office (including for Federal election activity) in a prior election cycle.
- (e) If a national committee of a political party or any person described in paragraph (b) of this section has actual knowledge that the certification is false, the certification may not be relied upon.
- (f) It is not prohibited for a national party or its agent to respond to a request for information about a tax-exempt group that shares the party's political or philosophical goals.

§ 300.12 Transition rules.

- (a) Permissible uses of excess non-Federal funds. Non-Federal funds received before November 6, 2002, by a national committee of a political party, including a national congressional campaign committee, and in its possession on that date, must be used before January 1, 2003. Subject to the restrictions in paragraph (b) of this section, such funds may be used solely as follows:
 - (1) To retire outstanding debts or obligations that were incurred solely in connection with an election held prior to November 6, 2002; or
 - (2) To pay expenses, retire outstanding debts, or pay for obligations incurred solely in connection with any run-off election, recount, or election contest resulting from an election held prior to November 6, 2002.
- (b) Prohibited uses of non-Federal funds. Non-Federal funds received by a national committee of a political party, including a national congressional campaign committee,

before November 6, 2002, and in its possession on that date, may not be used for the following purposes:

- (1) To pay any expenditure as defined in 2 U.S.C. 431(9);
- (2) To retire outstanding debts or obligations that were incurred for any expenditure; or
- (3) To defray the costs of the construction or purchase of any office building or facility.

(c) Any non-Federal funds remaining after payment of debts and obligations permitted in paragraph (a) of this section must be either disgorged to the United States Treasury, or returned by check to the donors, no later than December 31, 2002. Any refund checks not cashed by February 28, 2003 must be disgorged to the United States Treasury by March 31, 2003.

(d) National party committee office building or facility accounts. Before November 6, 2002, a national committee of a political party, including a national congressional campaign committee, may accept funds into its party office building or facility account, established pursuant to repealed 2 U.S.C. 431(8)(B)(viii), and may use the funds in the account only for the construction or purchase of an office building or facility. After November 5, 2002, the national party committees may no longer accept funds into such an account and must not use such funds for the purchase or construction of any office building or facility. Funds on deposit in any party office building or facility account on November 6, 2002, must be either disgorged to the United States Treasury or returned by check to the donors no later than December 31, 2002. Any refund checks not cashed by February 28, 2003 must be disgorged to the United States Treasury by March 31, 2003.

(e) Application. This section also applies to:

- (1) An officer or agent acting on behalf of a national party committee or a national congressional campaign committee; and
- (2) An entity that is directly or indirectly established, financed, maintained, or controlled by a national party committee or a national congressional campaign committee.

(f) Treatment of Federal and non-Federal accounts during transition period. The following provisions applicable to the allocation of, and payment for, expenses between Federal and non-Federal accounts of national party committees shall remain in effect between November 6 and December 31, 2002: 11 CFR 106.5(a),(b), (c), (f) and (g).

§ 300.13 Reporting (2 U.S.C. 431 note and 434(e)).

(a) In general. The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

(b) Termination report for non-Federal accounts. Unless a committee described in paragraph (a) of this section issues refund checks to donors as permitted by 11 CFR 300.12(c), each committee described in paragraph (a) of this section must file a termination report disclosing the disposition of funds in all non-Federal accounts and building fund accounts by January 31, 2003. Each committee that issues refund checks to donors must file a termination report covering the period ending March 31, 2003 disclosing the disposition of any refund checks not cashed by February 28, 2003, as required by 11 CFR 300.12(c) and (d).

(c) Transitional reporting rules.

- (1) The reporting requirements covering receipts in 11 CFR 104.8(e) and (f) and disbursements in 11 CFR 104.9(e) for national party committee non-Federal accounts and building fund accounts shall remain in effect for the reports covering activity between November 6 and December 31, 2002.
- (2) The reporting requirements covering disbursements in 11 CFR 104.9 (c) and (d) for national party committee non-Federal accounts and building fund accounts shall remain in effect for the reports covering activity between November 6, 2002 and March 31, 2003.

Subpart B – State, District, and Local Party Committees and Organizations

§ 300.30 Accounts

(a) Scope and introduction. This section applies to State, district, or local committees or organizations of a political party, whether or not the committee is a political committee under 11 CFR 100.5, that have receipts or make disbursements for Federal election activity. Paragraph (b) of this section describes and explains the types of accounts available to a political party committee or organization covered by this section.

Paragraph (c) of this section sets out the account structure that must be maintained by a political party committee or organization covered by this section.

(b) Types of accounts. Each State, district, and local party organization or committee that has receipts or makes disbursements for Federal election activity must establish one or more of the following types of accounts, pursuant to paragraph (c) of this section.

- (1) Non-Federal accounts. The funds deposited into this account are governed by State law. Disbursements, contributions, and expenditures made wholly or in part in connection with Federal elections must not be made from any non-Federal account, except as permitted by paragraph (c)(3)(ii) of this section, 11 CFR 102.5(a)(4), 11 CFR 106.7(d)(1)(i), 11 CFR 300.33 and 11 CFR 300.34.
- (2) Levin account. The funds deposited into this account must comply with 11 CFR 300.31. Such funds may be used for the categories of activities described at 11 CFR 300.32(b).
- (3) Federal account. Federal accounts may be used for the deposit of contributions and the making of expenditures pursuant to the following conditions:
 - (i) Only contributions that are permissible pursuant to the limitations and prohibitions of the Act may be deposited into any Federal account, regardless of whether such contributions are for use in connection with Federal or non-Federal elections. See 11 CFR 103.3 regarding impermissible funds.
 - (ii) Only contributions solicited and received pursuant to the following conditions may be deposited in a Federal account:
 - (A) Contributions must be designated by the contributors for the Federal account;

- (B) The solicitation must expressly state that contributions may be used wholly or in part in connection with a Federal election; or
 - (C) The contributor must be informed that all contributions are subject to the limitations and prohibitions of the Act.
- (iii) All disbursements, contributions, and expenditures made wholly or in part by any State, district, or local party organization or committee in connection with a Federal election must be made from either:
 - (A) A Federal account, except as permitted by 11 CFR 300.32; or
 - (B) A separate allocation account (see paragraph (b)(4) of this section).
- (iv) If all payments in connection with a Federal election, including payments for Federal election activities, are to be made from a Federal account, expenditures and disbursements for costs that are allocable pursuant to 11 CFR 106.7 or 11 CFR 300.33 must be made from the Federal account in their entirety, with the shares of a non-Federal account or of a Levin account being transferred to the Federal account pursuant to 11 CFR 106.7 and 11 CFR 300.33.
- (v) No transfers may be made to a Federal account from any other account(s) maintained by a State, district, or local party committee or organization from any other party organization or committee at

any level for the purpose of financing activity in connection with Federal elections, except as provided by paragraphs (b)(3)(iv) of this section or 11 CFR 300.33 and 300.34.

- (4) Allocation accounts. At the discretion of the party committee or organization, separate allocation accounts may be established for purposes of making allocable expenditures and disbursements.
- (i) Only funds from the party organization's or committee's Federal and non-Federal accounts may be deposited into an allocation account used to make allocable expenditures and disbursements for activities in connection with Federal and non-Federal elections.
 - (ii) Only funds from the party organization's or committee's Federal account and Levin funds from its non-Federal or Levin account(s) may be deposited into an allocation account used to make allocable expenditures and disbursements for activities undertaken pursuant to 11 CFR 300.32(b).
 - (iii) Once a party organization or committee has established a separate allocation account for activities in connection with Federal and non-Federal elections and a separate account for activities undertaken pursuant to 11 CFR 300.32(b), all allocable expenses must be paid from the appropriate allocation account for as long as that account is maintained.
 - (iv) The party organization or committee must transfer to the appropriate allocation account funds from its Federal and non-

Federal or Levin accounts in amounts proportionate to the Federal, non-Federal and Levin shares of each allocable expense pursuant to 11 CFR 106.7 and 11 CFR 300.33. The transfers must be made pursuant to 11 CFR 300.33 and 300.34.

(v) No funds contained in an allocation account may be transferred to any other account maintained by the party committee or organization.

(vi) For reporting purposes, all allocation accounts must be treated as Federal accounts.

(c) Required account or accounts. Each State, district, and local party organization or committee that has receipts or makes disbursements for Federal election activity must establish its accounts in accordance with paragraphs (c)(1), or (c)(2), or (c)(3) of this section.

(1) One or more Federal accounts in a campaign depository, in accordance with 11 CFR part 103, which must be treated as a separate political committee and be required to comply with the requirements of the Act including the registration and reporting requirements of 11 CFR part 102 and part 104. State, district, and local party organizations or committees may choose to make non-Federal disbursements, subject to State law, and disbursements for Federal election activity from a Federal account provided that such disbursements are reported pursuant to 11 CFR 104.17 and 11 CFR 300.36, and provided that contributors of the Federal funds so

used were notified that their contributions were subject to the limitations and prohibitions of the Act.

- (2) Establish at least three separate accounts in depositories as follows -
 - (i) One or more Federal accounts;
 - (ii) One or more Levin accounts; and
 - (iii) One or more Non-Federal accounts.
- (3) Establish two separate accounts in depositories as follows:
 - (i) One or more Federal accounts, and;
 - (ii) An account that must function as both a Non-Federal account and a Levin account. If such an account is used, the State, district, and local party must demonstrate through a reasonable accounting method approved by the Commission (including any method embedded in software provided or approved by the Commission) that whenever such organization makes a disbursement for activities undertaken pursuant to 11 CFR 300.32(b), that organization had received sufficient contributions or Levin funds to make such disbursement.

(d) Recordkeeping. All party organizations or committees must keep records of deposits into and disbursements from such accounts, and, upon request, must make such records available for examination by the Commission.

§ 300.31 Receipt of Levin funds.

(a) General rule. Levin funds expended or disbursed by any State, district, or local committee must be raised solely by the committee that expends or disburses them.

- (b) Compliance with State law. Each donation of Levin funds solicited or accepted by a State, district, or local committee of a political party must be lawful under the laws of the State in which the committee is organized.
- (c) Donations from sources permitted by State law but prohibited by the Act. If the laws of the State in which a State, district, or local committee of a political party is organized permit donations to the committee from a source prohibited by the Act and this chapter, other than 2 U.S.C. 441e, the committee may solicit and accept donations of Levin funds from that source, subject to paragraph (d) of this section.
- (d) Donation amount limitation.
- (1) General rule. A State, district, or local committee of a political party must not solicit or accept from any person (including any entity established, financed, maintained, or controlled by such person) one or more donations of Levin funds aggregating more than \$10,000 in a calendar year.
 - (2) Effect of different State limitations. If the laws of the State in which a State, district, or local committee of a political party is organized limit donations to that committee to less than the amount specified in paragraph (d)(1) of this section, then the State law amount limitations shall control. If the laws of the State in which a State, district, or local committee of a political party is organized permit donations to that committee in amounts greater than the amount specified in paragraph (d)(1) of this section, then the amount limitations in paragraph (d)(1) of this section shall control.
 - (3) No affiliation of committees for purposes of this paragraph. For purposes of determining compliance with paragraph (d) of this section only, State,

district, and local committees of the same political party shall not be considered affiliated. Subject to the amount limitations specified in paragraphs (d)(1) and (d)(2) of this section, a person (including any entity directly or indirectly established, financed, maintained, or controlled by such person) may donate without additional limitation to each and every State, district, and local committee of a political party.

(e) No Levin funds from a national party committee or a Federal candidate or officeholder. A State, district, or local committee of a political party disbursing Levin funds pursuant to 11 CFR 300.32 must not accept or use for such purposes any donations or other funds that are solicited, received, directed, transferred, or spent by or in the name of any of the following persons:

- (1) A national committee of a political party (including a national congressional campaign committee of a political party), any officer or agent acting on behalf of such a national party committee, or any entity that is directly or indirectly established, financed, maintained, or controlled by such a national party committee. Notwithstanding 11 CFR 102.17, a State, district, or local committee of a political party must not raise Levin funds by means of joint fundraising with a national committee of a political party, any officer or agent acting on behalf of such a national party committee, or any entity that is directly or indirectly established, financed, maintained, or controlled by such a national party committee. Nothing in this section shall be construed to prohibit a State, district, or local committee of a political party from jointly raising, under 11 CFR

102.17, Federal funds not to be used for Federal election activity with a national committee of a political party, or its agent, or any entity directly or indirectly established, financed, maintained, or controlled by such a national party committee.

- (2) A Federal candidate, or an individual holding Federal office, or an agent of a Federal candidate or officeholder, or an entity directly or indirectly established, financed, maintained, or controlled by, or acting on behalf of, one or more Federal candidates or individuals holding Federal office.

Notwithstanding 11 CFR 102.17, a State, district, or local committee of a political party must not raise Levin funds by means of joint fundraising with a Federal candidate, an individual holding Federal office, or an entity directly or indirectly established, financed, maintained, or controlled by, or acting on behalf of, one or more candidates or individuals holding Federal office. A Federal candidate or individual holding Federal office may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party at which Levin funds are raised. See 11 CFR 300.64.

- (f) Certain joint fundraising prohibited. Notwithstanding 11 CFR 102.17, a State, district, or local committee of a political party must not raise Levin funds by means of any joint fundraising activity with any other State, district, or local committee of any political party, the agent of such a committee, or an entity directly or indirectly established, financed, maintained, or controlled by such a committee. This prohibition includes State, district, and local committees of a political party organized in another

State. Nothing in this section shall be construed to prohibit two or more State, district, or local committees of a political party from jointly raising, under 11 CFR 102.17, Federal funds not to be used for Federal election activity.

(g) Safe Harbor. The use of a common vendor for fundraising by more than one State, district, or local committee or a political party, or the agent of such a committee does not constitute joint fundraising within the meaning of this section.

§ 300.32 Expenditures and disbursements.

(a) Federal funds.

- (1) An association or similar group of candidates for State or local office, or an association or similar group of individuals holding State or local office, must make any expenditures or disbursements for Federal election activity solely with Federal funds.
- (2) Except as provided in this part, a State, district, or local committee of a political party that makes expenditures or disbursements for Federal election activity must use Federal funds for that purposes, subject to the provisions of this chapter.
- (3) State, district, and local party committees that raise Federal funds to be used, in whole or in part, for Federal election activities must pay the direct costs of such fundraising only with Federal funds. The direct costs of a fundraising program or event include expenses for the solicitation of funds and for the planning and administration of actual fundraising programs and events.

- (4) State, district, and local party committees that raise Levin funds to be used, in whole or in part, for Federal election activity must pay the direct costs of such fundraising with either Federal or Levin funds. The direct costs of a fundraising program or event include expenses for the solicitation of funds and for the planning and administration of actual fundraising programs and events.
- (b) Levin funds. A State, district, or local committee of a political party may spend Levin funds in accordance with this part on the following types of activity:
- (1) Subject to the conditions set out in paragraph (c) of this section, only the following types of Federal election activity:
- (i) Voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election; and
- (ii) Voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot).
- (2) Any use that is lawful under the laws of the State in which the committee is organized, other than the Federal election activities defined in 11 CFR 100.24(b)(3) and (4). A disbursement of Levin funds under this paragraph need not comply with paragraphs (c)(1) and (c)(2) of this section, except as required by State law.

(c) Conditions and restrictions on spending Levin funds.

- (1) The Federal election activity for which the disbursement is made must not refer to a clearly identified candidate for Federal office.
- (2) The disbursement must not pay for any part of the costs of any broadcasting, cable, or satellite communication, other than a communication that refers solely to a clearly identified candidate for State or local office.
- (3) The disbursement must be made from funds raised in accordance with 11 CFR 300.31.
- (4) The disbursements for allocable Federal election activity that exceed in the aggregate \$5,000 in a calendar year may be paid for entirely with Federal funds or may be allocated between Federal funds and Levin funds according to 11 CFR 300.33. Disbursements for Federal election activity that may be allocated and that aggregate \$5,000 or less in a calendar year may be paid for entirely with Federal funds, entirely with Levin funds, or may be allocated between Federal funds and Levin funds according to 11 CFR 300.33.

(d) Non-Federal activities. A State, district, or local committee of a political party that makes disbursements for non-Federal activity may make those disbursements from its Federal, Levin, or non-Federal funds, subject to the laws of the State in which it is organized. A State, district, or local party committee that engages in fundraising for solely non-Federal funds may pay the costs related to such fundraising from any account, subject to State law, including a Federal account.

§ 300.33 Allocation of costs of Federal election activity.

(a) Costs of Federal election activity allocable by State, district, and local party committees and organizations.

- (1) Costs of voter registration. Subject to the conditions of 11 CFR 300.32(c), State, district, and local party committees and organizations may allocate disbursements or expenditures, except salaries and wages for employees, between Federal funds and Levin funds for voter registration activity, as defined in 11 CFR 100.24(a)(2), that takes place during the period that begins on the date that is 120 days before the date of a regularly scheduled Federal election and that ends on the date of the election, provided that the activity does not refer to a clearly identified Federal candidate.
- (2) Costs of voter identification, get-out-the-vote activity, or generic campaign activities within certain time periods. Subject to the conditions of 11 CFR 300.32(c), State, district, and local party committees and organizations may allocate disbursements or expenditures, except salaries and wages for employees, between Federal funds and Levin funds for voter identification, get-out-the-vote activity, or generic campaign activities, as defined in 11 CFR 100.24(a)(3) and (4) and 11 CFR 100.25, that are conducted in connection with an election in which a candidate for Federal office is on the ballot and within the time periods set forth in 11 CFR 100.24(a)(1), provided that the activity does not refer to a clearly identified Federal candidate.

(b) Allocation percentages. State, district, and local party committees and organizations that choose to allocate between Federal funds and Levin funds their expenditures and disbursements, except for salaries and wages, in connection with activities described in paragraph (a) of this section that take place within the time periods set forth in 11 CFR 100.24(a)(1) or paragraph (a) of this section must allocate the following minimum percentages to their Federal funds:

- (1) Presidential election years. If a Presidential candidate, but no Senate candidate appears on the ballot, State, district, and local party committees and organizations must allocate at least 28% of expenses for activities described in paragraph (a) of this section to their Federal funds.
- (2) Presidential and Senate election year. If a Presidential candidate and a Senate candidate appear on the ballot, State, district, and local party committees and organizations must allocate at least 36% of expenses for activities described in paragraph (a) of this section to their Federal funds.
- (3) Senate election year. If a Senate candidate, but no Presidential candidate, appears on the ballot, State, district, and local party committees and organizations must allocate at least 21% of expenses for activities described in paragraph (a) of this section to their Federal funds.
- (4) Non- Presidential and non-Senate year. If neither a Presidential nor a Senate candidate appears on the ballot, State, district, and local party committees and organizations must allocate at least 15% of expenses for activities described in paragraph (a) of this section to their Federal funds.

(c) Costs of Federal election activity not allocable by State, district, and local party committees. The following costs incurred by State, district, and local party committees and organizations must be paid only with Federal funds:

- (1) Public communications. Expenditures for public communications as defined in 11 CFR 100.26 by State, district, and local party committees and organizations that refer to a clearly identified candidate for Federal office and that promote, support, attack, or oppose any such candidate for Federal office must not be allocated between or among Federal, non-Federal, and Levin accounts. Only Federal funds may be used.
- (2) Salaries and wages. Salaries and wages for employees who spend more than 25% of their compensated time in a given month on Federal election activity or activities in connection with a Federal election must not be allocated between or among Federal, non-Federal, and Levin accounts. Only Federal funds may be used. Salaries and wages for employees who spend 25% or less of their compensated time in a given month on Federal election activity or activities in connection with a Federal election shall be paid from funds that comply with State law.
- (3) Fundraising costs. Disbursements for direct fundraising costs incurred by State, district, and local party committees and organizations for funds to be used, in whole or in part, for Federal election activity, including the activities described in paragraph (a) of this section, must not be allocated between or among Federal, non-Federal and Levin funds. Only Federal or Levin funds may be used.

(d) Transfers between accounts to cover allocable expenses. State, district, and local party committees and organizations may transfer Levin funds from their Levin or non-Federal accounts to their Federal accounts or to allocation accounts solely to meet expenses allocable pursuant to paragraphs (a)(1) and (2) of this section and only pursuant to the following methods:

(1) Payments from Federal accounts or from allocation accounts.

- (i) If Federal accounts are used to make payments for allocable activities, State, district, and local party committees and organizations must pay the entire amount of allocable expenses from their Federal accounts and transfer Levin funds from their Levin or non-Federal accounts to their Federal accounts solely to cover the portions of the expenses for which Levin funds may be used; or
- (ii) State, district, and local party committees and organizations may establish separate allocation accounts into which Federal funds and Levin funds may be deposited solely for the purpose of paying allocable expenses.

(2) Timing.

- (i) If Federal or allocation accounts are used to make allocable expenditures and disbursements, State, district, and local party committees and organizations must transfer Levin funds to their Federal or allocation accounts to meet allocable expenses no more than 10 days before and no more than 60 days after the payments

for which they are designated are made from a Federal or allocation account, except that transfers may be made more than 10 days before a payment is made from the Federal or allocation account if advance payment is required by the vendor(s) and if such payment is based on a reasonable estimate of the activity's final costs as determined by the committee and the vendor(s) involved.

- (ii) Any portion of a transfer of Levin funds to a party committee or organization's Federal or allocation account that does not meet the requirement of paragraph (d)(2)(i) of this section shall be presumed to be a loan or contribution from the Levin or non-Federal account to the Federal or allocation account, in violation of the Act.

§ 300.34 Transfers.

(a) Federal funds.

- (1) Notwithstanding 11 CFR 102.6(a)(1)(ii), a State, district, or local committee of a political party must not use any Federal funds transferred to it from, or otherwise accepted by it from, any of the persons enumerated in paragraphs (b)(1) and (b)(2) of this section as the Federal component of an expenditure or disbursement for Federal election activity under 11 CFR 300.32. A State, district, or local committee of a political party must itself raise the Federal component of an expenditure or disbursement allocated between Federal funds and Levin funds under 11 CFR 300.32 and 300.33.

- (2) A State, district, or local committee of a political party that makes an expenditure or disbursement of Federal funds for Federal election activities must demonstrate through a reasonable accounting method approved by the Commission (including any method embedded in software provided or approved by the Commission) that the Federal funds used to make the expenditure or disbursement do not include Federal funds transferred to the committee in violation of this section.

Alternatively, a State, district, or local committee of a political party may establish a separate Federal account into which the committee deposits only Federal funds raised by the committee itself, and from which all expenditures or disbursement of Federal funds for Federal election activities are made.

- (b) Levin funds. Levin funds must be raised solely by the State, district, or local committee of a political party that expends or disburses the funds. A State, district, or local committee of a political party must not use as Levin funds any funds transferred or otherwise provided to the committee by:

- (1) Any other State, district, or local committee of any political party, any officer or agent acting on behalf of such a committee, or any entity directly or indirectly established, financed, maintained or controlled by such a committee; or,
- (2) The national committee of any political party (including a national congressional campaign committee of a political party), any officer or agent acting on behalf of such a committee, or any entity directly or

indirectly established, financed, maintained, or controlled by such a committee.

- (c) Allocation transfers. Transfers of Levin funds between the accounts of a State, district, or local committee of a political party for allocation purposes must comply with 11 CFR 300.30 and 11 CFR 300.33.

§ 300.35 Office buildings.

- (a) General provision. For the purchase or construction of its office building, a State or local party committee may spend Federal funds or non-Federal funds that are not subject to the limitations, prohibitions, and disclosure provisions of the Act, so long as such funds are not contributed or donated by a foreign national. See 2 U.S.C. 441e. If non-Federal funds are used, they are subject to State law. An office building must not be purchased or constructed for the purpose of influencing the election of any candidate in any particular election for Federal office. For purposes of this section, the term local party committee shall include a district party committee.

- (b) Application of State law. Non-Federal funds received by a State or local party committee that are spent for the purchase or construction of its office building are subject to State law as set forth in paragraphs (b)(1) and (2) of this section.

- (1) Non-Federal account. If a State or local party committee uses non-Federal funds, Federal law does not preempt or supersede State law as to the source of funds used, the permissibility of the disbursements, or the reporting of the receipt and disbursement of such funds, except as provided in paragraph (a) of this section.

- (2) Levin funds. Levin funds may be used for the purchase or construction of a State or local party committee office building, if permitted by State law.
- (c) Leasing a portion of the party office building. A State or local party committee may lease a portion of its office building to others to generate income at the usual and normal charge. If the building is purchased or constructed in whole or in part with non-Federal funds, all rental income shall be deposited in the committee's non-Federal account and used only for non-Federal purposes. Such rental income and its use must also comply with State law. If the building is purchased or constructed solely with Federal funds, the rental income may be deposited in the Federal account. The receipt of such funds shall be reported in compliance with 11 CFR 104.3(a)(4)(vi).
- (d) Transitional Provisions for State Party Building or Facility Account. Up to and including November 5, 2002, the State committee of a political party may accept funds into its party office building or facility account, established pursuant to repealed 2 U.S.C. 431(8)(B)(viii), designated for the purchase or construction of an office building. Starting on November 6, 2002, the funds in the account may not be used for Federal account or Levin account purposes, but may be used for any non-Federal purposes, as permitted under State law.

§ 300.36 Reporting Federal election activity; recordkeeping.

- (a) Requirements for a State, district, or local committee of a political party, or an association or similar group of candidates for State or local office or of individuals holding State or local office, that is not a political committee.

- (1) A State, district, or local committee of a political party, or an association or similar group of candidates for State or local office or of individuals holding State or local office, that is not a political committee (see 11 CFR

100.5) must demonstrate through a reasonable accounting method that whenever it makes a payment of Federal funds or Levin funds (if it is permitted to spend Levin funds) for Federal election activity (see 11 CFR 300.32 and 300.33) it has received sufficient funds subject to the limitations and prohibitions of the Act to make the payment. Such an organization must keep records of amounts received or expended under this paragraph and, upon request, shall make such records available for examination by the Commission.

- (2) Notwithstanding the foregoing, a payment of Federal funds or Levin funds for Federal election activity shall not constitute an expenditure for purposes of determining whether a State, district, or local committee of a political party, or an association or similar group of candidates for State or local office or of individuals holding State or local office, qualifies as a political committee under 11 CFR 100.5, unless the payment otherwise qualifies as an expenditure under 2 U.S.C. 431(9). A payment of Federal funds for Federal election activity that refers to a clearly identified Federal candidate and that meets the criteria of 11 CFR 100.8(b)(10), (16), or (18) (exempt activities) shall be treated as a payment for exempt activity in accordance with all applicable provisions of this chapter, including, but not limited to, 11 CFR 100.5(c).

(b) Requirements for a State, district, or local committee of a political party, or an association or similar group of candidates for State or local office or of individuals holding State or local office, that is a political committee.

- (1) Requirements for a State, district, or local committee of a political party that has less than \$5,000 of aggregate receipts and disbursements for Federal election activity in a calendar year, and for an association or similar group of candidates for State or local office or of individuals holding State or local office at all times. This paragraph applies to a State, district, or local committee of a political party that is a political committee, and that has less \$5,000 of aggregate receipts and disbursements for Federal election activity in a calendar year; and, at all times, to an association or similar group of candidates for State or local office or of individuals holding State or local office that is a political committee (see 11 CFR 100.5). Such a party committee or association of candidates or officeholders must report all receipts and disbursements of Federal funds for Federal election activity, including the Federally allocated portion of a payment for Federal election activity. A disbursement of Federal funds or Levin funds for Federal election activity (see 11 CFR 300.32 and 300.33) by either such a party committee or association of candidates or officeholders shall not be deemed an expenditure and reported as such pursuant to 11 CFR part 104, unless the disbursement otherwise qualifies as an expenditure under 2 U.S.C. 431(9).
- (2) Requirements for a State, district, or local committee of a political party that has \$5,000 or more of aggregate receipts and disbursements for Federal election activity in a calendar year. A State, district, or local committee of a political party that is a political committee (see 11 CFR

100.5) must report all receipts and disbursements made for Federal election activity if the aggregate amount of such receipts and disbursements is \$5,000 or more during the calendar year. The disclosure required by this paragraph must include receipts and disbursements of Federal funds and of Levin funds used for Federal election activity.

- (i) Reporting of allocation of expenses between Federal funds and Levin funds. A State, district, or local committee of a political party that makes a disbursement for Federal election activity that is allocated between Federal funds and Levin funds (see 11 CFR 300.33) must report for each such disbursement:
 - (A) In the first report of a calendar year disclosing an allocated disbursement for Federal election activity, the committee must state the allocation percentages to be applied for allocable Federal election activity pursuant to 11 CFR 300.33(b).
 - (B) In each subsequent report in the calendar year itemizing an allocated disbursement for Federal election activity, the committee must state the category of Federal election activity (see 11 CFR 100.24(b)) for which each allocated disbursement was made, and must disclose the total amounts disbursed from Federal funds and Levin funds for that year to date for each such category.

- (ii) Reporting of allocation transfers. A committee that makes allocated disbursements for Federal election activities in accordance with 11 CFR 300.33(d) shall report each transfer of Levin funds from its Levin or non-Federal account, to its Federal account, and each transfer from its Federal account and its Levin or non-Federal account into an allocation account, for the purpose of making such disbursements. In the report covering the period in which each transfer occurred, the committee must explain in a memo entry the allocated disbursement to which the transfer relates and the date on which the transfer was made. If the transfer includes funds for the allocable costs of more than one category of Federal election activity, the committee must itemize the transfer, showing the amounts designated for each category.
- (iii) Reporting of allocated disbursements. For each disbursement allocated between Federal funds and Levin funds, the committee must report the full name and address of each person to whom the disbursement was made, the date of the disbursement, amount, and purpose of the disbursement. If the disbursement is for the allocable costs of more than one category of Federal election activity, the committee must itemize the disbursement, showing the amounts designated for each category. The committee must also disclose the total amount disbursed from Federal funds and Levin

funds for Federal election activity that calendar year, to date, for each category of Federal election activity.

(iv) Itemization. The disclosure required by paragraph (b)(2) of this section must include, in addition to any other applicable reporting requirement of this chapter, the itemized disclosure of receipts and disbursements of \$200 or more to or from any person for Federal election activities.

(3) Reporting of disbursements allocated between Federal funds and non-Federal funds, other than Levin funds. A State, district, or local committee of a political party that makes a disbursement for costs allocable between Federal and non-Federal funds, other than the costs of Federal election activity that is allocated between Federal funds and Levin funds under 11 CFR 300.33, must comply with 11 CFR 104.17.

(c) Filing.

(1) Schedule. A State, district, or local committee of a political party, or an association or similar group of candidates for State or local office or of individuals holding State or local office, that must file reports under paragraph (b) of this section must comply with the monthly filing schedule in 11 CFR 104.5(c)(3).

(2) Electronic filing. Receipts of Federal funds for Federal election activity that constitute contributions under 11 CFR 100.7, and disbursements of Federal funds for Federal election activity that constitute expenditures

under 11 CFR 100.8, apply when determining whether a political committee must file reports in an electronic format under 11 CFR 104.18.

(d) Recordkeeping. A State, district, or local committee of a political party, or an association or similar group of candidates for State or local office or of individuals holding State or local office, that must file reports under paragraph (b) of this section must comply with the requirements of 11 CFR 104.14.

§ 300.37 Prohibitions on fundraising for and donating to certain tax-exempt organizations (2 U.S.C. 441f(d)).

(a) Prohibitions. A State, district, or local committee of a political party must not solicit any funds for, or make or direct any donations to:

- (1) An organization that is described in 26 U.S.C. 501(c) and exempt from taxation under section 26 U.S.C. 501(a) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity;
- (2) An organization that has submitted an application for tax-exempt status under 26 U.S.C. 501(c) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity; or
- (3) An organization described in 26 U.S.C. 527, unless the organization is:
 - (i) A political committee under 11 CFR 100.5;
 - (ii) A State, district, or local committee of a political party;
 - (iii) The authorized campaign committee of a State or local candidate;or

- (iv) A political committee under State law, that supports only State or local candidates and that does not make expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity.
- (b) Application. This section also applies to:
 - (1) An officer or agent acting on behalf of a State, district, or local committee of a political party;
 - (2) An entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee or a political party or an officer or agent acting on behalf of such an entity; or
 - (3) An entity that is directly or indirectly established, financed, maintained, or controlled by an agent of a State, district, or local committee of a political party.
- (c) Determining whether an organization makes expenditures or disbursements in connection with a Federal election.
 - (1) In determining whether a section 501(c) organization is one that makes expenditures or disbursements in connection with a Federal election, including expenditures or disbursements for Federal election activity, pursuant to paragraphs (a)(1) and (2) of this section, a State, district, or local committee of a political party or any other person described in paragraph (b) of this section, may obtain and rely upon a certification from

the organization that satisfies the criteria described in paragraph (d) of this section.

- (2) In determining whether a section 527 organization is a State-registered political committee that supports only State or local candidates and does not make expenditures or disbursements in connection with an Federal election, including expenditures or disbursements for Federal election activity, pursuant to paragraph (a)(3)(iv) of this section, a State, district, or local committee of a political party or any other person described in paragraph (b) of this section, may obtain and rely upon a certification from the organization that satisfies the criteria described in paragraph (d) of this section.

(d) Certification. A State, district, or local committee of a political party or any person described in paragraph (b) of this section may rely upon a certification that meets all of the following criteria:

- (1) The certification is a signed written statement by an officer or other authorized representative of the organization with knowledge of the organization's activities or by the treasurer of the State-registered political committee described in paragraph (a)(3)(iv) of this section;
- (2) The certification states that within the current election cycle, the organization or political committee has not made, and does not intend to make, expenditures or disbursements in connection with an election for Federal office (including for Federal election activity); and

- (3) The certification states that the organization or political committee does not intend to pay debts incurred from the making of expenditures or disbursements in connection with an election for Federal office (including for Federal election activity) in a prior election cycle.
- (e) If a State, district, or local committee of a political party or any person described in paragraph (b) of this section has actual knowledge that the certification is false, the certification may not be relied upon.
- (f) It is not prohibited for a State, district, or local committee of a political party or its agents to respond to a request for information about a tax-exempt group that shares the party's political or philosophical goals.

Subpart C – Tax-exempt Organizations

§ 300.50 Prohibited fundraising by national party committees (2 U.S.C. 441i(d)).

- (a) Prohibitions on fundraising and donations. A national committee of a political party, including a national congressional campaign committee, must not solicit any funds for, or make or direct any donations to the following organizations:
 - (1) An organization that is described in 26 U.S.C. 501(c) and exempt from taxation under section 26 U.S.C. 501(a) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity;
 - (2) An organization that has submitted an application for tax-exempt status under 26 U.S.C. 501(c) and that makes expenditures or disbursements in

connection with an election for Federal office, including expenditures or disbursements for Federal election activity; or

- (3) An organization described in 26 U.S.C. 527, unless the organization is:
 - (i) A political committee under 11 CFR 100.5;
 - (ii) A State, district, or local committee of a political party; or
 - (iii) The authorized campaign committee of a State or local candidate;

(b) Application. This section also applies to:

- (1) An officer or agent acting on behalf of a national party committee, including a national congressional campaign committee;
- (2) An entity that is directly or indirectly established, financed, maintained, or controlled by a national party committee, including a national congressional campaign committee, or an officer or agent acting on behalf of such an entity; or
- (3) An entity that is directly or indirectly established, financed, maintained, or controlled by an agent of a national, State, district, or local committee of a political party, including a national congressional campaign committee.

(c) Determining whether a section 501(c) organization makes expenditures or disbursements in connection with Federal elections. In determining whether a section 501(c) organization is one that makes expenditures or disbursements in connection with a Federal election, including expenditures or disbursements for Federal election activity, pursuant to paragraphs (a)(1) and (2) of this section, a national committee of a political party, including a national congressional campaign committee, or any other person

described in paragraph (b) of this section, may obtain and rely upon a certification from the organization that satisfies the criteria described in paragraph (d) of this section.

(d) Certification. A national committee of a political party, including a national congressional campaign committee, or any person described in paragraph (b) of this section, may rely upon a certification that meets all of the following criteria:

- (1) The certification is a signed written statement by an officer or other authorized representative of the organization with knowledge of the organization's activities;
- (2) The certification states that within the current election cycle, the organization has not made, and does not intend to make, expenditures or disbursements in connection with an election for Federal office (including for Federal election activity); and
- (3) The certification states that the organization or political committee does not intend to pay debts incurred from the making of expenditures or disbursements in connection with an election for Federal office (including for Federal election activity) in a prior election cycle.

(e) If a national committee of a political party or any person described in paragraph (b) of this section has actual knowledge that the certification is false, the certification may not be relied upon.

(f) It is not prohibited for a national party or its agent to respond to a request for information about a tax-exempt group that shares the party's political or philosophical goals.

§ 300.51 Prohibited fundraising by State, district, or local party committees (2 U.S.C. 441i(d)).

(a) Prohibitions. A State, district, or local committee of a political party must not solicit any funds for, or make or direct any donations to:

- (1) An organization that is described in 26 U.S.C. 501(c) and exempt from taxation under section 26 U.S.C. 501(a) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity;
- (2) An organization that has submitted an application for tax-exempt status under 26 U.S.C. 501(c) and that makes expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity; or
- (3) An organization described in 26 U.S.C. 527, unless the organization is:
 - (i) A political committee under 11 CFR 100.5;
 - (ii) A State, district, or local committee of a political party;
 - (iii) The authorized campaign committee of a State or local candidate; or
 - (iv) A political committee under State law, that supports only State or local candidates and that does not make expenditures or disbursements in connection with an election for Federal office, including expenditures or disbursements for Federal election activity.

- (b) Application. This section also applies to:
- (1) An officer or agent acting on behalf of a State, district, or local committee of a political party;
 - (2) An entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee or a political party or an officer or agent acting on behalf of such an entity; or
 - (3) An entity that is directly or indirectly established, financed, maintained, or controlled by an agent of a State, district, or local committee of a political party.
- (c) Determining whether an organization makes expenditures or disbursements in connection with a Federal election.
- (1) In determining whether a section 501(c) organization is one that makes expenditures or disbursements in connection with a Federal election, including expenditures or disbursements for Federal election activity, pursuant to paragraphs (a)(1) and (2) of this section, a State, district, or local committee of a political party or any other person described in paragraph (b) of this section, may obtain and rely upon a certification from the organization that satisfies the criteria described in paragraph (d) of this section.
 - (2) In determining whether a section 527 organization is a State-registered political committee that supports only State or local candidates and does not make expenditures or disbursements in connection with a Federal election, including expenditures or disbursements for Federal election

activity, pursuant to paragraph (a)(3)(iv) of this section, a State, district, or local committee of a political party or any other person described in paragraph (b) of this section, may obtain and rely upon a certification from the organization that satisfies the criteria described in paragraph (d) of this section.

(d) Certification. A State, district, or local committee of a political party or any person described in paragraph (b) of this section may rely upon a certification that meets all of the following criteria:

- (1) The certification is a signed written statement by an officer or other authorized representative of the organization with knowledge of the organization's activities or by the treasurer of the State-registered political committee described in paragraph (a)(3)(iv) of this section;
- (2) The certification states that within the current election cycle, the organization or political committee has not made, and does not intend to make, expenditures or disbursements in connection with an election for Federal office (including for Federal election activity); and
- (3) The certification states that the organization does not intend to pay debts incurred from the making of expenditures or disbursements in connection with an election for Federal office (including for Federal election activity) in a prior election cycle.

(e) If a State, district, or local committee of a political party or any person described in paragraph (b) of this section has actual knowledge that the certification is false, the certification may not be relied upon.

(l) It is not prohibited for a State, district, or local committee of a political party or its agents to respond to a request for information about a tax-exempt group that shares the party's political or philosophical goals.

§ 300.52 Fundraising by Federal candidates and Federal officeholders (2 U.S.C. 441i(e)(1)&(4)).

A Federal candidate, an individual holding Federal office, and an individual agent acting on behalf of either may make the following solicitations of funds on behalf of any organization described in 26 U.S.C. 501(c) and exempt from taxation under 26 U.S.C. 501(a), or an organization that has submitted an application for determination of tax-exempt status under 26 U.S.C. 501(c):

(a) General solicitations. A Federal candidate, an individual holding Federal office, or an individual agent acting on behalf of either, may make a general solicitation of funds, without regard to source or amount limitation, if:

(1) The organization does not engage in activities in connection with an election, including any activity described in paragraph (c) of this section;

or

(2) (i) The organization conducts activities in connection with an election, but the organization's principal purpose is not to conduct election activities or any activity described in paragraph (c) of this section; and

(ii) The solicitation is not to obtain funds for activities in connection with an election or any activity described in paragraph (c) of this section.

(b) Specific solicitations. A Federal candidate, an individual holding Federal office, or an individual agent acting on behalf of either, may make a solicitation explicitly to obtain funds for any activity described in paragraph (c) of this section or for an organization whose principal purpose is to conduct that activity, if:

- (1) The solicitation is made only to individuals; and
- (2) The amount solicited from any individual does not exceed \$20,000 during any calendar year.

(c) Voter registration, voter identification, get-out-the-vote activity and generic campaign activity. This section applies to only the following types of Federal election activity:

- (1) Voter registration activity, as described in 11 CFR 100.24(a)(2), during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election; or
- (2) The following activities conducted in connection with an election in which one or more Federal candidates appear on the ballot (see 11 CFR 100.24(a)(1)), regardless of whether one or more State candidates also appears on the ballot:
 - (i) Voter identification as described in 11 CFR 100.24(a)(4);
 - (ii) Get-out-the-vote activity as described in 11 CFR 100.24(a)(3); or
 - (iii) Generic campaign activity as defined in 11 CFR 100.25.

(d) Prohibited solicitations. A Federal candidate, an individual holding Federal office, and an individual who is an agent acting on behalf of either, must not make any

solicitation on behalf of any organization described in 26 U.S.C. 501(c) and exempt from taxation under 26 U.S.C. 501(a), or an organization that has submitted an application for determination of tax-exempt status under 26 U.S.C. 501(c) for any election activity other than a Federal election activity as described in paragraph (c) of this section.

(e) Safe Harbor. In determining whether a 501(c) organization is one whose principal purpose is to conduct election activities, including activity described in paragraph (c) of this section, a Federal candidate, an individual holding Federal office, or an individual agent acting on behalf of either, may obtain and rely upon a certification from the organization that satisfies the following criteria:

- (1) The certification is a signed written statement by an officer or other authorized representative of the organization with knowledge of the organization's activities;
- (2) The certification states that the organization's principal purpose is not to conduct election activities, including election activity described in paragraph (c) of this section; and
- (3) The certification states that the organization does not intend to pay debts incurred from the making of expenditures or disbursements in connection with an election for Federal office (including for Federal election activity) in a prior election cycle.

(f) If a Federal candidate, an individual holding Federal office, or an individual agent acting on behalf of either has actual knowledge that the certification is false, the certification may not be relied upon.

Subpart D – Federal Candidates and Officeholders

§ 300.60 Scope (2 U.S.C. 441i(e)(1)).

This subpart applies to:

- (a) Federal candidates;
- (b) Individuals holding Federal office (see 11 CFR 300.2(o));
- (c) Agents acting on behalf of a Federal candidate or individual holding Federal office; and
- (d) Entities that are directly or indirectly established, financed, maintained, or controlled by, or acting on behalf of, one or more Federal candidates or individuals holding Federal office.

§ 300.61 Federal elections (2 U.S.C. 441i(e)(1)(A)).

No person described in 11 CFR 300.60 shall solicit, receive, direct, transfer, spend, or disburse funds in connection with an election for Federal office, including funds for any Federal election activity as defined in 11 CFR 100.24, unless the amounts consist of Federal funds that are subject to the limitations, prohibitions, and reporting requirements of the Act.

§ 300.62 Non-Federal elections (2 U.S.C. 441i(e)(1)(B)).

A person described in 11 CFR 300.60 may solicit, receive, direct, transfer, spend, or disburse funds in connection with any non-Federal election, only in amounts and from sources that are consistent with State law, and that do not exceed the Act's contribution limits or come from prohibited sources under the Act.

§ 300.63 Exception for State party candidates (2 U.S.C. 441i(e)(2)).

Section 300.62 shall not apply to a Federal candidate or individual holding Federal office who is a candidate for State or local office, if the solicitation, receipt or spending of funds is permitted under State law; and refers only to that State or local candidate, to any other candidate for that same State or local office, or both. If an individual is simultaneously running for both Federal and State or local office, the individual must raise, accept, and spend only Federal funds for the Federal election.

§ 300.64 Exemption for attending, speaking, or appearing as a featured guest at fundraising events (2 U.S.C. 441i(e)(3)).

Notwithstanding the provisions of 11 CFR 100.24, 300.61 and 300.62, a Federal candidate or individual holding Federal office may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party, including but not limited to a fundraising event at which Levin funds are raised, or at which non-Federal funds are raised. In light of the foregoing:

- (1) State, district, or local committees of a political party may advertise, announce or otherwise publicize that a Federal candidate or individual holding Federal office will attend, speak, or be a featured guest at a fundraising event, including, but not limited to, publicizing such appearance in pre-event invitation materials and in other party committee communications; and
- (2) Candidates and individuals holding Federal office may speak at such events without restriction or regulation.

§ 300.65 Exceptions for certain tax-exempt organizations (2 U.S.C.

441i(c)(1)&(4)).

A Federal candidate, an individual holding Federal office, and an individual agent acting on behalf of either may make the following solicitations of funds on behalf of any organization described in 26 U.S.C. 501(c) and exempt from taxation under 26 U.S.C. 501(a), or an organization that has submitted an application for determination of tax-exempt status under 26 U.S.C. 501(c):

(a) General solicitations. A Federal candidate, an individual holding Federal office or an individual agent acting on behalf of either, may make a general solicitation of funds, without regard to source or amount limitation, if:

(1) The organization does not engage in activities in connection with an election, including any activity described in paragraph (c) of this section; or

(2) (i) The organization conducts activities in connection with an election, but the organization's principal purpose is not to conduct election activities or any activity described in paragraph (c) of this section; and

(ii) The solicitation is not to obtain funds for activities in connection with an election or any activity described in paragraph (c) of this section.

(b) Specific solicitations. A Federal candidate, an individual holding Federal office, or an individual agent acting on behalf of either, may make a solicitation explicitly to

obtain funds for any activity described in paragraph (c) of this section or for an organization whose principal purpose is to conduct that activity, if:

- (1) The solicitation is made only to individuals; and
- (2) The amount solicited from any individual does not exceed \$20,000 during any calendar year.

(c) Voter registration, voter identification, get-out-the-vote activity and generic campaign activity. This section applies to only the following types of Federal election activity:

- (1) Voter registration activity, as described in 11 CFR 100.24(a)(2), during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election; or
- (2) The following activities conducted in connection with an election in which one or more Federal candidates appear on the ballot (see 11 CFR 100.24(a)(1)), regardless of whether one or more State candidates also appears on the ballot:
 - (i) Voter identification as described in 11 CFR 100.24(a)(4);
 - (ii) Get-out-the-vote activity as described in 11 CFR 100.24(a)(3); or
 - (iii) Generic campaign activity as defined in 11 CFR 100.25.

(d) Prohibited solicitations. A Federal candidate, an individual holding Federal office, and an individual who is an agent acting on behalf of either, must not make any solicitation on behalf of any organization described in 26 U.S.C. 501(c) and exempt from taxation under 26 U.S.C. 501(a), or an organization that has submitted an application for

determination of tax-exempt status under 26 U.S.C. 501(c) for any election activity other than a Federal election activity as described in paragraph (c) of this section.

(c) Safe Harbor. In determining whether a 501(c) organization is one whose principal purpose is to conduct election activities, including activity described in paragraph (c) of this section, a Federal candidate, an individual holding Federal office, or an individual agent acting on behalf of either may obtain and rely upon a certification from the organization that satisfies the following criteria:

- (1) The certification is a signed written statement by an officer or other authorized representative of the organization with knowledge of the organization's activities;
- (2) The certification states that the organization's principal purpose is not to conduct election activities, including election activities described in paragraphs (c) of this section.
- (3) The certification states that the organization does not intend to pay debts incurred from the making of expenditures or disbursements in connection with an election for Federal office (including for Federal election activity) in a prior election cycle.

(f) If a Federal candidate, an individual holding Federal office, or an individual agent acting on behalf of either has actual knowledge that the certification is false, the certification may not be relied upon.

Subpart E – State and Local Candidates

§ 300.70 Scope (2 U.S.C. 441i(f)(1)).

This subpart applies to any candidate for State or local office, individual holding State or local office, or an agent acting on behalf of any such candidate or individual. For example, this subpart applies to an individual holding Federal office who is a candidate for State or local office. This subpart does not apply to an association or similar group of candidates for State or local office or of individuals holding State or local office.

§ 300.71 Federal funds required for certain public communications (2 U.S.C. 441i(f)(1)).

No individual described in 11 CFR 300.70 shall spend any funds for a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified), and that promotes or supports any candidate for that Federal office, or attacks or opposes any candidate for that Federal office (regardless of whether the communication expressly advocates a vote for or against a candidate) unless the funds consist of Federal funds that are subject to the limitations, prohibitions, and reporting requirements of the Act. See definition of public communication at 11 CFR 100.26

§ 300.72 Federal funds not required for certain communications (2 U.S.C. 441i(f)(2)).

The requirements of section 11 CFR 300.71 shall not apply if the public communication is in connection with an election for State or local office, and refers to one or more candidates for State or local office or to a State or local officeholder but does not promote, support, attack, or oppose any candidate for Federal office.

PART 9034 – ENTITLEMENTS

25. The authority citation for Part 9034 continues to read as follows:

Authority: 26 U.S.C. 9034 and 9039(b).

26. Section 9034.8 is amended by adding introductory language to paragraph (a) to read as follows:

§ 9034.8 Joint fundraising.

(a) General. Nothing in this section shall supersede 11 CFR part 300, which prohibits any person from soliciting, receiving, directing, transferring, or spending any non-Federal funds, or from transferring Federal funds for Federal election activities.

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Karl J. Sandstrom
Vice-Chairman
Federal Election Commission

DATED: _____
BILLING CODE: 6715-01-P